

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION AT CLEVELAND

4 UNITED STATES OF AMERICA, CASE NO. 1:16-cr-260

5 Plaintiff,

6 vs.

TUESDAY, APRIL 24, 2018

7 RUSSELL DAVIS,

8 Defendant.

VOLUME 1, PAGES 1 - 87

9

10 TRANSCRIPT OF TRIAL BY JURY

11 HELD BEFORE THE HONORABLE CHRISTOPHER A. BOYKO
12 UNITED STATES DISTRICT JUDGE

13 APPEARANCES:

14 For the Plaintiff:

15 Robert F. Corts,
16 Vasile C. Katsaros,
17 Assistant United States Attorneys

18 For the Defendant:

19 Edward G. Bryan, Esq.
20 Darin Thompson, Esq.

21 Official Court Reporter:

22 Lance A. Boardman, RDR, CRR
23 United States District Court
24 801 West Superior Avenue
25 Court Reporters 7-189
 Cleveland, Ohio 44113
 216.357.7019

Proceedings recorded by mechanical stenography; transcript
produced by computer-aided transcription.

Table of Contents

	<u>Page</u>
<u>Witnesses/Events</u>	
PRELIMINARY INSTRUCTIONS	3
OPENING STATEMENT BY THE PLAINTIFF	10
OPENING STATEMENT BY THE DEFENDANT	33
HOLLY LITZ	60
Mr. Corts - Direct	61
Mr. Bryan - Cross	79
Mr. Corts - Redirect	85

Preliminary Instructions

3

02:49:55 1 (The jury is present in open court.)

02:49:59 2 THE COURT: Good afternoon, everyone. Judge

02:50:00 3 Chris Boyko. Welcome to my courtroom and to the United

02:50:05 4 States District Court. You have spent most of the day

02:50:06 5 already with Judge Parker and counsel and Mr. Davis in this

02:50:09 6 case. It's my turn to take over and try the case.

02:50:12 7 Our order of business will be as follows: I'll give

02:50:15 8 you some preliminary instructions. After that, we will have

02:50:19 9 the opening statements of counsel and probably get in a

02:50:22 10 little bit of testimony today before we let you go. I will

02:50:25 11 not keep you late. I know you've been here since very early

02:50:28 12 this morning, so don't worry about leaving very late.

02:50:31 13 All right. So please listen closely.

02:50:31 14 PRELIMINARY INSTRUCTIONS

02:50:38 15 THE COURT: Under our law, the lawyers, the

02:50:42 16 jury, and the judge have separate duties. The lawyers

02:50:44 17 present evidence through witnesses to support their cases.

02:50:47 18 I make sure that only proper legal evidence is submitted to

02:50:51 19 you. As jurors, you have the exclusive duty for determining

02:50:53 20 two things: Number one, you decide the disputed facts.

02:50:59 21 Number two, you determine the believability, that is the

02:51:02 22 credibility, of the witnesses. In other words, I handle the

02:51:04 23 law; you handle the facts. I have no right to say or

02:51:08 24 indicate what your decision should be on the facts or the

02:51:11 25 credibility of the witnesses.

Preliminary Instructions

4

02:51:13 1 Regarding the law in this case, what I say goes. You
02:51:15 2 may not agree with me, you may not agree with the law, but
02:51:19 3 part of your oath means you accept the law and my rulings as
02:51:22 4 I give them.

02:51:23 5 Let the evidence guide you in this trial. Set aside
02:51:28 6 any impressions you get about how I feel about this case.
02:51:32 7 It's irrelevant.

02:51:33 8 After my remarks, you will have the opening statements
02:51:35 9 of counsel. The attorneys may tell you what they expect the
02:51:38 10 evidence to show. After opening statements, the Government
02:51:41 11 will present its evidence. Next, the defendant may present
02:51:45 12 evidence but need not.

02:51:47 13 After both sides have rested, the Court will address
02:51:50 14 legal issues without your presence and then call you back in
02:51:54 15 for instructions of law and closing arguments.

02:51:56 16 The Government has the right to argue first and last
02:52:01 17 since the prosecution bears the burden of proving the
02:52:04 18 defendant's guilt beyond a reasonable doubt.

02:52:05 19 Keep in mind that the opening statements, remarks
02:52:09 20 during trial, and closing arguments are not evidence. The
02:52:13 21 statements, remarks, and arguments of counsel will help you
02:52:16 22 understand the evidence. Naturally, counsel will also use
02:52:19 23 them to persuade you to see the case their way.

02:52:22 24 After arguments, I will give you the procedures you
02:52:25 25 must follow in reaching your decision. The case will then

Preliminary Instructions

5

02:52:29 1 be in your hands for a verdict.

02:52:31 2 During trial, I may call counsel to the bench or they
02:52:34 3 may ask to approach to discuss legal or procedural matters.

02:52:39 4 We do this out of your hearing to avoid confusion and also
02:52:42 5 limit your role to deciding factual matters.

02:52:45 6 If I think the legal discussion will take some time,
02:52:48 7 we'll excuse you for a break. If not, you'll remain in the
02:52:52 8 courtroom with my request for your patience.

02:52:55 9 Please keep in mind that the time that we spend
02:52:58 10 discussing matters at side bar cuts the chances of an
02:53:01 11 improper legal ruling and gives you a cleaner case to
02:53:05 12 decide.

02:53:05 13 Sometimes you'll hear counsel object to questions or
02:53:08 14 exhibits. If I believe the objection is sound, I will
02:53:11 15 sustain it. If I believe counsel is wrong, I will overrule
02:53:16 16 it.

02:53:17 17 Furthermore, your job is not to weigh the skill or
02:53:20 18 personalities of counsel. Don't evaluate the merit of their
02:53:23 19 questions. Find out the truth according to the evidence
02:53:27 20 received and the law as I instruct you.

02:53:28 21 Both sides are here as a matter of absolute right.
02:53:33 22 They are equally entitled to your fair and impartial
02:53:35 23 consideration without sympathy, passion, or prejudice.

02:53:38 24 A few procedural matters to keep in mind. If you have
02:53:42 25 any physical or personal problems, please raise your hand,

Preliminary Instructions

6

02:53:45 1 let us know. We'll try and accommodate you as much as
02:53:49 2 possible. Same thing if you have to use the restroom.
02:53:52 3 Please raise your hand. We don't expect to have any martyrs
02:53:56 4 on this jury.

02:53:57 5 As far as breaks, our normal course of business, we
02:54:00 6 will break mid morning, break for lunch, break mid
02:54:03 7 afternoon, break for evening. It all depends on the flow of
02:54:06 8 the case as to what time that occurs, but roughly it will be
02:54:08 9 the same.

02:54:08 10 I know you've been told by Judge Parker not to discuss
02:54:11 11 this matter with anyone until you are in that deliberation
02:54:16 12 room with your fellow jurors. And obviously that's
02:54:18 13 important. Don't talk to witnesses, attorneys, or anybody
02:54:21 14 else about this case, including family.

02:54:25 15 As far as this trial goes, this is your family for
02:54:27 16 purposes of this trial. And you can tell family and friends
02:54:30 17 that you'll be happy to discuss it with them after the trial
02:54:32 18 is over and a verdict is returned. If you know any
02:54:38 19 violation of these orders, please let us know. I will have
02:54:41 20 to deal with that.

02:54:42 21 If there's any delays, I apologize. We have every
02:54:45 22 intention of making valuable use of your time. We know it's
02:54:47 23 important. You're away from jobs, family, and friends, and
02:54:50 24 we understand that.

02:54:51 25 I believe that Judge Parker has also talked to you

Preliminary Instructions

7

02:54:53 1 about using any electronic devices, smartphones, to
02:54:57 2 communicate. Please don't do that. We've had lots of
02:55:00 3 trouble, not only in this district but across the country,
02:55:03 4 of people using smartphones, laptops, iPads, any kind of
02:55:09 5 electronic devices to communicate. "Hey, guess what
02:55:12 6 happened today? What do you think about this?"

02:55:14 7 Well, what happens in the end if that happens is that
02:55:16 8 you go home and we have to reseat another jury and start all
02:55:20 9 over again. We do not want to do that. So please, again,
02:55:23 10 don't communicate with anyone. And you may talk to anyone
02:55:27 11 you wish after this trial is over.

02:55:30 12 Do not conduct your own investigations. Don't read
02:55:32 13 law books. Don't surf the Internet for information on
02:55:38 14 anyone involved in this trial. Please, again, it's
02:55:40 15 important, ladies and gentlemen. We want to do it right the
02:55:41 16 first time.

02:55:45 17 You will be permitted to take notes during trial.
02:55:47 18 Please listen to this instruction. The Court will permit
02:55:50 19 those jurors who desire to take notes during the trial to do
02:55:52 20 so. No juror is required to take notes. The taking of
02:55:55 21 notes is entirely a matter of personal choice for each
02:55:58 22 juror.

02:55:59 23 The fact that the notes taken by a juror support his
02:56:02 24 or her recollection in no way makes that juror's memory more
02:56:07 25 reliable than that of the jurors who do not take notes. Do

Preliminary Instructions

8

02:56:10 1 not let the taking of notes divert your attention from what
02:56:13 2 is being said or is happening in the courtroom during trial.
02:56:17 3 Some persons believe that taking notes is not helpful
02:56:19 4 because it may distract a person's attention and interfere
02:56:22 5 with hearing all the evidence.

02:56:24 6 All notes are confidential matter for the
02:56:27 7 consideration of the jury only. Each note taker will leave
02:56:31 8 his or her notes in the jury room during all recesses and
02:56:34 9 until deliberations begin. At that time, you will be
02:56:37 10 allowed to use your notes during deliberations. All notes
02:56:41 11 will be returned to the clerk for destruction at the time
02:56:45 12 the jury is discharged to preserve your confidentiality.

02:56:47 13 Also, you will be allowed to ask questions of
02:56:54 14 witnesses. This is how we do it. After the attorneys are
02:56:56 15 done questioning the witness, I will turn to you and ask you
02:56:59 16 if you have any questions of the witness. Please do not
02:57:01 17 speak. You will write that question down on your notepad,
02:57:06 18 fold that over, hand it to Miss Huth. I will have it
02:57:10 19 recorded by the court reporter, and then I will go to side
02:57:13 20 bar and talk to the attorneys about your question.

02:57:15 21 Please keep in mind that you are still subject to the
02:57:18 22 same rules of evidence as if an attorney were asking that
02:57:22 23 question. So if it's objectionable if they ask it, same
02:57:26 24 goes for your question too. But we'll do everything we can
02:57:30 25 to have that question asked if permissible under the rules

02:57:35 1 of evidence.

02:57:35 2 And after those questions are either asked and --
02:57:38 3 asked and answered by the witness, I have the attorneys
02:57:40 4 follow up. They always get the last word. But that's how
02:57:42 5 we do it.

02:57:43 6 So you can take notes, sit there not take notes, sit
02:57:50 7 there take notes, ask questions, whatever your personal
02:57:53 8 preference. I'm trying to give you as many tools as you
02:57:55 9 feel individually comfortable with to help you during this
02:57:58 10 trial. That's the whole purpose of this. Okay?

02:58:00 11 Our aim in this trial is twofold. First, please try
02:58:05 12 and give us a hundred percent for the time that you are here
02:58:08 13 to the extent that you can. Look at it this way: If this
02:58:11 14 were your trial, would you want your jury to give you a
02:58:14 15 hundred percent? I think the answer is yes to that. So
02:58:16 16 please try and be as attentive as possible.

02:58:18 17 Second, we want you to leave here with a true
02:58:22 18 understanding of how things work in our justice system.
02:58:25 19 This is not TV. We wish we could package everything for you
02:58:28 20 within an hour. We cannot do that. The attorneys have
02:58:31 21 prepared very hard on both sides for this case, and I'm sure
02:58:34 22 that you will see that in action.

02:58:38 23 You may see a little bit of the good, bad, and ugly.
02:58:41 24 There may be some things you like, others you don't, some
02:58:44 25 things that you say are okay but could be improved. That's

Opening by Plaintiff (Katsaros)

10

02:58:47 1 okay. And you'll probably get a survey asking about that
02:58:50 2 when we're done with this trial. But it's important that
02:58:52 3 you think about it. And any way we can to improve the
02:58:57 4 system, we appreciate your input because there's always room
02:59:00 5 for improvement no matter what.

02:59:02 6 Finally, and my last point here, please do not let
02:59:06 7 anyone tell you that jury service is not important. You
02:59:10 8 stick up for the people who came before you, stick up for
02:59:13 9 yourself, and stick up for the people that will come after
02:59:15 10 you. Next to active military service, it is the highest
02:59:18 11 calling you'll ever have in this country. With the jury
02:59:26 12 system, we're the United States of America. Without it,
02:59:28 13 we're just another country. That's how all of my colleagues
02:59:34 14 and myself feel about this system. And if you ask any of
02:59:38 15 the judges, "Would you want to do away with the jury
02:59:40 16 system," you'll get a unanimous "no." Unanimous "no."
02:59:45 17 That's how strongly we feel about juries and our justice
02:59:51 18 system.

02:59:51 19 So with that in mind, Mr. Katsaros, are you ready for
02:59:55 20 opening statements?

02:59:56 21 MR. KATSAROS: I am, Your Honor.

02:59:57 22 THE COURT: Then please go ahead on behalf of
02:59:59 23 the Government.

03:00:07 24 OPENING STATEMENT BY THE PLAINTIFF

03:00:07 25 MR. KATSAROS: Good afternoon. I want to

Opening by Plaintiff (Katsaros)

11

03:00:08 1 thank all of you for your public-spirit activity today.

03:00:12 2 It's appreciated by the Government, and I know it's

03:00:12 3 appreciated by Mr. Bryan and Mr. Davis.

03:00:38 4 On March 7, 2016, at approximately 6:50 a.m., Cindy

03:00:45 5 Castro-White found her son, Jacob White, his room, and he

03:00:49 6 was cold to the touch. He had passed. He was only 23 years

03:00:52 7 old at the time.

03:00:53 8 It's a tragedy that as a parent, it's your worst fear,

03:00:59 9 outliving your children. Now Jacob's life is basically a

03:01:05 10 statistic in an epidemic that has overrun northeast Ohio and

03:01:09 11 specifically Lorain County. The question now is, how did

03:01:11 12 this tragedy happen. And that's what we're here today and

03:01:14 13 that's what you're here today to make a determination of.

03:01:17 14 As prosecutors, we always try to give our cases a

03:01:20 15 theme. It's almost like a theme throughout the case that

03:01:24 16 gives you a road map as to where we think the evidence is

03:01:27 17 going to lead you to.

03:01:28 18 In this case, the theme that I would present to you

03:01:31 19 is: Follow the phones.

03:01:34 20 Phones. We all have them. Our kids have them. Our

03:01:38 21 parents have them. As a society, we have become so

03:01:42 22 dependent upon phones, they have taken over our lives. We

03:01:46 23 can't go through our days. Our kids, we can't -- our kids

03:01:52 24 have them. It rules our lives. Those phones, though,

03:01:59 25 unlock maybe some of our greatest secrets.

Opening by Plaintiff (Katsaros)

12

03:02:02 1 Jacob Castro-White, ladies and gentlemen, he had a
03:02:06 2 secret. His secret was that he was addicted to opioids.
03:02:09 3 His mom didn't know about it. His girlfriend didn't know
03:02:12 4 about it. His friends didn't know about it. But in the
03:02:15 5 months leading up to this event, it dominated his life.

03:02:19 6 The phone evidence is the roadmap in this case. And
03:02:22 7 I'm going to ask you to look at it throughout.

03:02:26 8 Ladies and gentlemen, the Government's case today is
03:02:28 9 going to prove -- throughout this week is going to prove to
03:02:31 10 you that the defendant, Russell Davis, is a drug dealer.
03:02:33 11 How do we know that? We have his phone. We've looked at
03:02:38 12 his phone.

03:02:39 13 You will also hear testimony from Harry Karaplis and
03:02:46 14 Corey Stock as to their relationship with Mr. Davis over the
03:02:49 15 months leading up to Jacob's death. You will see that they
03:02:52 16 were in regular contact with him in the months leading up to
03:02:56 17 Jacob's death. And what was it for? It was for the purpose
03:02:58 18 of purchasing opioids, heroin and/or Fentanyl.

03:03:03 19 You'll see during this period of time, in the month or
03:03:06 20 so leading up, that there were 63 either phone or text
03:03:10 21 messages between Mr. Karaplis and Stock to Mr. Davis
03:03:17 22 outlining what was going on relative to their relationship.

03:03:22 23 You will also see a number of communications between
03:03:25 24 Jacob, Harry, and Corey Stock. And those communications
03:03:30 25 will lead you to what their relationship was. In essence,

Opening by Plaintiff (Katsaros)

13

03:03:35 1 it was a drug relationship. All kids in their early 20s who
03:03:39 2 had become addicted to opioids, who bought opioids together,
03:03:45 3 did them together. And specifically in the time leading up
03:03:48 4 to this, the person who they were buying from, who had the
03:03:51 5 best stuff, was Red, Mr. Davis. That's what they knew him
03:03:56 6 as: Red.

03:03:59 7 In terms of experience, you'll see that Corey Stock
03:04:03 8 had a raging addiction. He was approximately seven years
03:04:06 9 into his addiction for opioids. And he sort of was the guy
03:04:13 10 who would go grab -- when I say "grab," that means go buy
03:04:16 11 dope -- for the boys.

03:04:18 12 Harry Karaplis' and Jacob's addictions started in
03:04:24 13 September, the summer of 2015 and got progressively worse
03:04:28 14 prior to Jacob's death in March of 2016.

03:04:34 15 On most occasions, they would ask Corey to go. Why?
03:04:40 16 Corey didn't have a job. Corey would go to Mr. Davis. They
03:04:45 17 would pool their money together to buy drugs. And Mr. Davis
03:04:49 18 would -- excuse me, Corey would purchase the drugs from Red,
03:04:52 19 Mr. Davis.

03:04:56 20 Initially you'll hear that Red was Harry's connect,
03:05:01 21 his drug connect. He then introduced him to Corey.

03:05:10 22 You will hear testimony from Corey and Harry that as
03:05:13 23 addicts they're looking for the best stuff. Why? These
03:05:17 24 kids have limited funds. They're looking for the strongest
03:05:20 25 and most powerful drugs they can buy. They don't want to

Opening by Plaintiff (Katsaros)

14

03:05:23 1 waste their money buying bad dope. And at this time, the
03:05:27 2 good dope, the best dope, was coming from Red.

03:05:35 3 You will see during this period of time -- what you
03:05:39 4 won't see, excuse me, during this period of time is any text
03:05:42 5 message or communication between Jacob Castro-White, the
03:05:57 6 deceased, and Red. The evidence will be that he's never met
03:05:52 7 Red, he's never communicated with Red. But there are text
03:06:00 8 messages that you will see outlining that he knows who Red
03:06:02 9 is.

03:06:03 10 For instance, on 3/6, the day before his passing, at
03:06:08 11 8:18 a.m., Jacob texted Corey, "I stay high for a while off
03:06:13 12 Red's shit, which is good. What all are you getting from
03:06:16 13 Red?"

03:06:18 14 During this period of time leading up to Jacob's death
03:06:20 15 and even before that, a month before that, Corey, again, the
03:06:25 16 most experienced user, didn't know but suspected what he --
03:06:32 17 they were getting from Red was Fentanyl. He suspected it
03:06:35 18 based on the way it broke down when he would prepare it to
03:06:38 19 do a shot.

03:06:41 20 You'll see a text message actually in late January
03:06:45 21 where he actually sent a text message to Red which stated,
03:06:50 22 "Give me a second. I'll come and I'll do the thing in front
03:06:53 23 of you to show you the process." In other words, your
03:06:57 24 dope's too strong. I'll show you how to cut it.

03:07:00 25 Corey will testify that Red declined, said, listen,

Opening by Plaintiff (Katsaros)

15

03:07:04 1 I'm going to give it to you. You cut it in any way you
03:07:07 2 want. That's what Corey did.

03:07:10 3 Corey became the, quote/unquote, mixer for this group
03:07:15 4 of kids. They're not kids. They're adults. They're in
03:07:18 5 their 20s. And they have raging heroin addictions.

03:07:23 6 So what would Corey do? Corey wasn't working. The
03:07:25 7 other two were working. He'd go to Red's house, he'd buy
03:07:32 8 the dope. Then, on most occasions, especially when it came
03:07:35 9 to Jacob, he would cut it.

03:07:36 10 What do I mean by "cut"? He would dilute what he was
03:07:40 11 giving Jacob. Okay? He did that for two reasons.

03:07:42 12 One, he didn't feel like Jacob was at the stage that
03:07:45 13 he was at and could handle just how good the stuff was. And
03:07:50 14 second, it got him more drugs that he could handle -- that
03:07:55 15 he could have. So it was a two-part system for him.

03:08:03 16 Based on the text messages that we're going to show
03:08:06 17 you, you're going to see on March 5th, 2016, the day --
03:08:11 18 well, a day and a half before Jacob died, the evidence is
03:08:13 19 going to show, based on those phone records and the
03:08:15 20 testimony from Harry and Corey, that they purchased drugs
03:08:19 21 from Red at approximately 4 p.m. for the three of them,
03:08:23 22 okay? It was the same way. Corey went, picked them up,
03:08:26 23 brought them back to those guys.

03:08:28 24 The next day, on March 6th, 2016, the evidence is
03:08:31 25 going to show, based upon the text messages and Harry and

Opening by Plaintiff (Katsaros)

16

03:08:35 1 Corey's testimony, that they purchased drugs from Red again
03:08:40 2 on March 6 at approximately 1 p.m. that day. Okay? So
03:08:47 3 their addiction had really progressed.

03:08:48 4 Later that night, okay -- this is, you know, probably
03:08:52 5 12 hours before Jacob's passing. Later that night,
03:08:55 6 approximately, like, 7, 8 p.m., Jacob wants more dope, okay?
03:09:00 7 He wants more even though he had already bought some at 1
03:09:03 8 p.m. He communicates with Corey, "Are you going back to
03:09:07 9 grab?" "Are you going back to Red?"

03:09:09 10 Corey says, "Listen, I already went." Okay?

03:09:11 11 Now, for Jacob, he has no way to get to Red other than
03:09:16 12 through Corey and Harry. That's the relationship between
03:09:19 13 these guys. That's what he's dealing with. So who does he
03:09:23 14 reach out to?

03:09:25 15 He later at 10 -- excuse me, around 11 reaches out to
03:09:30 16 Harry. But before he does that -- and you'll see this in
03:09:33 17 the text messages. It's the last text message he ever sends
03:09:36 18 to Corey. And it says, "Yeah" -- and this is at 10:26 p.m.
03:09:42 19 on March 6. It says, "Yeah. I'll just wait for next time
03:09:47 20 with Red." He almost foretold what was going to happen to
03:09:53 21 him.

03:09:54 22 Without Corey again, he went to Jacob -- excuse me.

03:09:59 23 Without Corey, Jacob went to Harry. And you'll see a text
03:10:04 24 message. And he sends Harry a text message at 11:34 p.m. on
03:10:07 25 March 6. It says, "Were you thinking to throw down at all?"

Opening by Plaintiff (Katsaros)

17

03:10:13 1 Were you thinking to go buy drugs tonight? I need to get
03:10:15 2 some drugs. And again, specifically we're talking about
03:10:17 3 opioids: Heroin, Fentanyl.

03:10:19 4 Who does Harry reach out to? Of course he's going to
03:10:23 5 reach out to Red. And Harry starts texting and calling Red,
03:10:27 6 trying to see if he can hook up with him. And this goes on
03:10:31 7 multiple phone calls, multiple texts.

03:10:35 8 Finally, at 12:06, you'll see that Red returns Harry's
03:10:42 9 call, okay? He returns the call.

03:10:45 10 And Harry's going to tell you at that point the deal
03:10:48 11 is on. He tells Jacob, come pick me up at my house. Jacob
03:10:54 12 has \$30. Harry has \$20.

03:10:57 13 This is the first time, ladies and gentlemen, that
03:11:01 14 they -- it's these two together. It normally was Corey that
03:11:04 15 was always the one that would go grab for the group.

03:11:08 16 So you'll see the text messages, you'll see a phone
03:11:12 17 call back and forth between Red and Harry. And at
03:11:15 18 approximately 12:35, the evidence is going to show, they do
03:11:20 19 the deal in front of Red's house at 1823 Spring Garden in
03:11:27 20 Lorain, Ohio. And it's a \$50 deal for opioids. And it's in
03:11:30 21 a gum wrapper. Jacob waits in the car. Harry meets Red.

03:11:36 22 The evidence is going to show that after that, Jacob
03:11:40 23 and Harry head back to Jacob's house. Jacob lives only a
03:11:44 24 few minutes from Harry. And he was particular about keeping
03:11:48 25 his equipment, his instruments, his needles at his house.

03:11:53 1 They go back to Jacob's house. They immediately go --
03:11:55 2 he gets it, they go into the basement, Harry and Jacob.

03:11:59 3 They split the dope, okay?

03:12:02 4 At that time, Harry tells Jacob, hey, listen, Corey's
03:12:08 5 been diluting what you've been getting. He's been stepping
03:12:13 6 on it, as they say in the drug world. "Stepping on it"
03:12:17 7 means adding additives to it. Be careful how much you do.
03:12:22 8 Don't do too much.

03:12:23 9 Harry's going to tell you that Jacob does -- uses a
03:12:26 10 liquid, takes a hypodermic needle, does a shot, okay?

03:12:32 11 There's still drugs left. They get into Jacob's car. Jacob
03:12:36 12 and Harry head back to Harry's place, about a minute or two
03:12:40 13 away. Harry goes in, does a shot, passes out, okay? He's
03:12:46 14 going to tell you it was the strongest stuff he had ever
03:12:48 15 done.

03:12:50 16 What happens next? He wakes up about 2:50, 2:51 a.m.
03:12:57 17 Jacob's gone. He believes that his wallet was moved and
03:13:00 18 there was \$40 missing from it. That's what he's going to
03:13:03 19 testify to.

03:13:04 20 Jacob goes back to the house. What happens next?

03:13:11 21 Harry blows up his phone when he wakes up at approximately
03:13:14 22 2:51 p.m., calling, calling, calling, calling. He'll tell
03:13:18 23 you he was checking to see if Jacob was all right. He
03:13:21 24 called him about 15 times. No answer.

03:13:26 25 The next thing you'll hear is Harry does another shot,

Opening by Plaintiff (Katsaros)

19

03:13:32 1 passes out, doesn't get back up, he says, until
03:13:35 2 approximately 6:30 a.m. to 7 a.m. And as soon as he gets
03:13:39 3 up, he starts blowing up Jacob's phone. No answer.

03:13:42 4 Well, unfortunately, we know what happened at 6:50
03:13:46 5 a.m. That's where Jacob's found by his mom. She goes in at
03:13:51 6 that particular time. He has a -- what they call a foam
03:13:57 7 cone that you're going to hear from the coroner, the doctor,
03:14:00 8 that it's typical in an opioid overdose. He also has rigor
03:14:06 9 mortis in his right arm.

03:14:09 10 You'll also note that on a dresser in Jacob's room
03:14:12 11 there is an open gum wrapper with about .07 drugs in there,
03:14:17 12 okay? And those are collected, okay? There's a couple of
03:14:21 13 syringes. And right on that dresser also at his mom's house
03:14:26 14 you'll see that there's two spoons that are collected, and
03:14:29 15 those are taken as evidence in the case.

03:14:33 16 Everybody suspects at this time, based upon what they
03:14:35 17 see, the investigators when they go in that room, that Jacob
03:14:38 18 had died of an overdose. The coroner, Stephen Evans, goes
03:14:43 19 out to the scene also. He's there. He takes photographs of
03:14:46 20 everything. He inspects the body. And then he brings Jacob
03:14:50 21 back to the morgue, okay?

03:14:55 22 He's going to tell you then that he drew blood from
03:14:57 23 what we call the femoral artery. It's away from the heart,
03:15:01 24 and it's the best place to determine how strong the drugs
03:15:04 25 were in somebody's system. He takes it back, he draws that

03:15:09 1 blood back at the coroner's, and he sends it off to the lab
03:15:12 2 and they wait. They wait to see what's going to come back
03:15:15 3 with the labs. They wait to see what's going to come back
03:15:18 4 with the scene.

03:15:19 5 So what happens next? Well, an investigation begins.
03:15:25 6 Buddy Sivert, a detective with LPD, comes out to the scene.
03:15:31 7 And what's he trying to do? He's trying to find out who
03:15:35 8 sold the drugs that killed this kid. And really at that
03:15:37 9 point in time it's not even about finding him to arrest him,
03:15:39 10 it's about finding him so he can't sell drugs to some other
03:15:42 11 kid, some other adult, somebody else, and cause them to
03:15:48 12 befall the same fate that happened to Jacob Castro-White.

03:15:53 13 So after collecting all the evidence, taking it back,
03:15:56 14 he starts talking to witnesses. He talks to Jacob's mom,
03:16:00 15 Cindy Castro-White. He talks to Holly Litz, his girlfriend,
03:16:03 16 who says that she was with him for a substantial portion of
03:16:06 17 the night. He talks to every witness he can relative to the
03:16:11 18 incident.

03:16:11 19 He also finds Jacob's phone. He sees Jacob's phone in
03:16:15 20 the room. And he sees all of these missed calls from Harry.

03:16:24 21 At that point in time, he talks to Harry, at some
03:16:27 22 point, and asks him to come down to the station.

03:16:32 23 He also hears that Don Buchs was with Jacob over the
03:16:37 24 course of the night. He sends police over to Don's house to
03:16:40 25 interview Don Buchs to find out what he and Harry were doing

03:16:44 1 during the course of the night, trying to basically retrace,
03:16:48 2 find out where this kid went and how he ended up where he
03:16:51 3 ended up.

03:16:51 4 On March 7th you'll hear that Harry went in for an
03:16:56 5 interview with Detective Sivert. At that time, Harry had
03:17:03 6 just come off, had gotten up around 6:30, goes down to the
03:17:07 7 station. And you're going to hear testimony that he was not
03:17:10 8 truthful relative to what he told the police. You'll hear
03:17:12 9 that he did mention an individual named Red, but he never
03:17:16 10 told detectives at that time that he was with Jacob, okay?
03:17:21 11 Never told them that he went to grab.

03:17:26 12 So at that point, the investigation is still -- Sivert
03:17:29 13 is still trying to figure out where to go next.

03:17:32 14 That iPhone that I talked about, Sivert tried to get
03:17:36 15 into, to unlock it, to determine what the password was so
03:17:39 16 they could get into it. They had tried the password. They
03:17:43 17 actually even went down to Jacob's funeral and tried to use
03:17:47 18 the thumbprint to try and open it. They couldn't open the
03:17:51 19 phone.

03:17:51 20 What did they do? At the time he sends what's called
03:17:55 21 a preservation letter to Verizon Wireless. If you do it
03:17:58 22 pretty much immediately, the telephone company will send you
03:18:01 23 content messages from a certain period of time. He
03:18:04 24 requested from Verizon the text messages for Jacob Castro
03:18:10 25 from March 5th through March 7th. So he sends that letter

03:18:14 1 out for them to specifically hold those contact messages.

03:18:18 2 On March 18 -- he actually gets the messages back on
03:18:22 3 March 9, right? So he starts looking through them. And he
03:18:26 4 realizes, you know, Harry Karaplis is not telling the truth.
03:18:31 5 He sees some of the conversations that he's had with Jacob,
03:18:35 6 the references to Red. Who's -- he wants to know who Red
03:18:38 7 is.

03:18:38 8 At this time, you'll hear that when he brings Harry
03:18:41 9 back, Harry again comes in without an attorney. He starts
03:18:45 10 going through the messages with him, telling him what he
03:18:48 11 has, telling him, hey, listen, you're just a user. We're
03:18:51 12 not interested in users. We're interested in dealers.
03:18:54 13 Harry doesn't want to talk at that time. Asked Detective
03:18:58 14 Sivert if he should get an attorney. He says, yeah, you
03:19:01 15 better.

03:19:01 16 What happens next? March 22 of 2016, based on looking
03:19:07 17 at those messages, he sees what Corey's been talking to
03:19:11 18 Jacob about, this relationship that I referred to that's
03:19:14 19 been going on during this particular time.

03:19:18 20 He reviews those text messages, and he confronts
03:19:20 21 Corey. Corey says, hey, Red is Jake's -- is Harry's guy.
03:19:29 22 You know, "I know Harry went to meet Red that night, but
03:19:31 23 I've never dealt directly with Red." Okay?

03:19:39 24 April 1, 2016, Sivert calls Harry back in again. This
03:19:43 25 time Harry has an attorney, and he sits down and this time

03:19:47 1 he goes through the events of that evening. He talks to him
03:19:53 2 about what specifically occurred and who is Red. He tells
03:19:59 3 Detective Sivert where the house is located, that 1823
03:20:02 4 Spring Garden that I mentioned before. He talks to him
03:20:06 5 specifically about his phone number. He provides what his
03:20:11 6 vehicle is or the vehicle that he's seen him in. And he
03:20:14 7 later picks him out of a photo array that Sivert had
03:20:17 8 presented to him.

03:20:18 9 Sivert at this time, armed with what he knows from
03:20:22 10 Jacob, he goes out to that residence. And it's Spring
03:20:27 11 Avenue, I apologize, not Spring Garden. And he runs the
03:20:29 12 plate on that silver Buick that Harry had referred to in the
03:20:33 13 interview. And it comes back to Russell Davis, also known
03:20:36 14 as Big Red.

03:20:40 15 Now, during the course of that interview, Harry also
03:20:44 16 tells Sivert, hey, this guy called me a couple days ago. He
03:20:48 17 called me asking me where Corey was, blah, blah, blah, is
03:20:52 18 Corey snitching, blah, blah, blah.

03:20:54 19 So on April 12 Detective Sivert brings Harry back into
03:20:57 20 the station and asks him to place a controlled call. What a
03:21:01 21 controlled call basically is, they taped it, okay? Harry's
03:21:04 22 here, Sivert's here, they call Red.

03:21:08 23 They dial 216-526-8810, and Red answers the phone.
03:21:13 24 You'll have that phone call. We're going to play it for
03:21:16 25 you, okay?

03:21:17 1 Basically, he asks Harry, is Corey -- are the cops
03:21:23 2 sweating Corey? He wants to know if Corey's talking, okay?
03:21:28 3 Is he talking to the police. Because he hasn't "fucked with
03:21:32 4 him in a while." "Fucked with him" means he hasn't sold him
03:21:35 5 dope in a while. And this is on April 12. He also asked
03:21:38 6 Harry, you know, what's going on with the police in that
03:21:42 7 death case.

03:21:43 8 April 13, Lorain Police gets a search warrant for his
03:21:47 9 house. It's specifically a search warrant for that phone,
03:21:50 10 that 216-526-8850. They go to Red's house at 1823 Spring
03:21:58 11 Garden. And Red is outside. They arrest him and they find
03:22:01 12 that phone. That phone is located within the house.

03:22:08 13 After that, Detective Sivert interviews Red. And
03:22:12 14 we're going to play that interview for you. He denies --
03:22:16 15 basically denies being a drug dealer, and he probably gives
03:22:19 16 Sivert at least five different phone numbers, okay,
03:22:23 17 associated with the offense.

03:22:24 18 But there's something I want you to hone in on during
03:22:27 19 that interview, and it happened right at the beginning. And
03:22:29 20 you're going to see it when we play it. During the
03:22:32 21 interview, the defendant questioned Sivert.

03:22:33 22 He says, "Somebody said I sold them drugs and they
03:22:37 23 died." Right?

03:22:39 24 Sivert's response is, "Well, he definitely died."
03:22:42 25 And Red says, "I didn't sell him nothing. Now, did

03:22:46 1 somebody give it to him? Maybe."

03:22:49 2 I'm going to come back to that at closing and ask you

03:22:52 3 why Mr. Davis would say something like that. "I didn't sell

03:22:58 4 him nothing. Now, did somebody give it to him? Maybe."

03:23:01 5 So what happened next? Well, we still have to wait on

03:23:05 6 the coroner's verdict, and they're still waiting on that lab

03:23:08 7 to come back. They get the labs back relevant to what was

03:23:12 8 found at the scene. The two spoons on the dresser, okay, in

03:23:19 9 Jacob's room come back as Fentanyl. The open bindle that

03:23:25 10 we -- it's not a bindle. The open gum wrapper comes back as

03:23:30 11 heroin and Fentanyl, okay?

03:23:31 12 The blood work that we did relevant to Jacob

03:23:34 13 Castro-White, there's a reading level in there. There's a

03:23:39 14 high, high level of Fentanyl. It's 9.6 nanograms. And the

03:23:46 15 coroner's going to tell you that's extremely high. The

03:23:48 16 forensic toxicologist from the lab is going to tell you

03:23:51 17 that's extremely high.

03:23:52 18 So based upon that, based upon the police reports,

03:23:56 19 based upon him going out to the scene, based upon his visual

03:24:00 20 inspection of the body, based upon the drugs located at the

03:24:03 21 residence, and based upon what he finds from the toxicology

03:24:07 22 report, and again what he saw, that foam cone that he as a

03:24:13 23 30-year physician in the emergency room has seen thousands

03:24:17 24 of overdoses, he comes -- he determines a verdict, which is

03:24:21 25 that -- he's going to testify obviously -- that Jacob

Opening by Plaintiff (Katsaros)

26

03:24:25 1 Castro-White died of a Fentanyl overdose.

03:24:29 2 You'll hear from Kevin Shanks Fentanyl is 40 times

03:24:33 3 stronger than heroin. And that's what killed Jacob

03:24:37 4 Castro-White.

03:24:37 5 So what happens next? Well, the defendant is charged.

03:24:45 6 He's charged with distributing a mixture of Fentanyl. Now,

03:24:48 7 that's part of the charge. So he's charged with

03:24:53 8 distributing a mixture of Fentanyl that caused the death of

03:24:57 9 Jacob Castro-White.

03:24:58 10 So what the Government has to prove to you is, A, he

03:25:01 11 sold those drugs, and the drugs that he sold killed Jacob

03:25:05 12 Castro-White, okay? There's no requirement that we show you

03:25:10 13 that there was a direct sale from Red to Jacob Castro-White,

03:25:14 14 but we must prove to you that Red's drugs are the reason,

03:25:20 15 are the reason that Jacob died.

03:25:26 16 The Government is planning on calling 16 witnesses,

03:25:29 17 give or take, in this case. First you're going to hear from

03:25:32 18 Holly Litz, his girlfriend. She'll talk about the events of

03:25:35 19 that night and Jacob. You'll hear from his friend Don

03:25:41 20 Buchs, who he was with right before he met Harry.

03:25:44 21 So the way sort of the night plays out is he's with

03:25:47 22 Holly during the afternoon. Then later in the night at

03:25:50 23 approximately 8 or -- well, approximately 10:00 he goes to

03:25:53 24 Buchs' house. He's with Buchs for a couple hours. They

03:25:57 25 smoke some marijuana. And then he later meets Harry after

Opening by Plaintiff (Katsaros)

27

03:26:00 1 12, or picks up Harry after 12.

03:26:02 2 You're also going to hear from Cynthia Castro-White.

03:26:06 3 She's going to talk to you about her son. Really a tragedy.

03:26:10 4 It's -- there's no winners, no winners in any of these

03:26:14 5 cases. It's just losing, just different levels of losing.

03:26:19 6 You're also going to hear from James Bachman. He's

03:26:22 7 the life care individual who arrived on scene.

03:26:25 8 Next we're going to call Patrolman John Kovach, first

03:26:28 9 on scene. He'll tell you what he found when he got there,

03:26:32 10 where the evidence was, et cetera.

03:26:33 11 Next you'll hear from Detective Buddy Sivert, the LPD

03:26:38 12 detective who investigated the case.

03:26:39 13 Next the Government's going call Dr. Stephen Evans,

03:26:43 14 the Lorain County coroner.

03:26:46 15 We also may call Dr. Miller, Dr. Frank Miller. He's a

03:26:51 16 forensic pathologist. You may hear from him in this case.

03:26:55 17 The Government is also going to call Kevin Shanks.

03:26:58 18 He's the toxicologist who will talk to you about the

03:27:00 19 findings that his lab made relative to that femoral blood we

03:27:04 20 took from Jacob that showed that 9.5 nanogram reading -- or,

03:27:09 21 excuse me, 9.6.

03:27:11 22 Next you'll hear from Elizabeth Doyle. She's a

03:27:15 23 chemist with the Lorain County crime lab. She'll talk about

03:27:19 24 her tests regarding the drugs found at Jacob's house and the

03:27:23 25 spoons that she found.

Opening by Plaintiff (Katsaros)

28

03:27:25 1 Next you're going to hear from Corey Stock.

03:27:32 2 Just sort of a brief thing on Mr. Stock. He was a

03:27:36 3 raging opioid addict at this time. And he's going to

03:27:39 4 testify to you about his I guess interdependent relationship

03:27:42 5 with Harry, with Jacob and others in their pursuit of

03:27:48 6 finding opioids. He's going to tell you that during that

03:27:51 7 period of time and even the month leading up to it, Red's

03:27:55 8 stuff was the best. It was the best stuff.

03:27:59 9 He's also going to tell you that after Jacob died --

03:28:04 10 and you're going to see this in the messages. You're going

03:28:06 11 to see this in the communications. He continued to go to

03:28:10 12 Red. So even after Jacob passes away on March 7, 2016,

03:28:16 13 you're going to see communications between Corey and Red

03:28:21 14 where they continue -- where Corey's continuing to buy dope

03:28:25 15 from him even after Jacob's death.

03:28:27 16 You know, why? Why is he doing that? Because addicts

03:28:32 17 are looking for the best stuff, and Red had the best stuff

03:28:35 18 during this time.

03:28:36 19 He's also going to tell you that at some point in

03:28:39 20 time, only a couple days after Jacob's death, he talked to

03:28:43 21 Red. He told Red: Hey, my buddy died. You know, Jake

03:28:48 22 died.

03:28:48 23 Red's response to him was: I don't know that kid. I

03:28:52 24 sold to Harry.

03:28:55 25 Corey will also testify to you about his interview

03:29:00 1 with Detective Sivert, why he wasn't completely truthful.

03:29:03 2 He's going to testify, for two reasons. One, he doesn't

03:29:05 3 want to be a snitch. If you get I guess a reputation as a

03:29:10 4 snitch on the streets or in the drug world, there's really

03:29:12 5 two things that happen: Either you put yourself in danger,

03:29:15 6 okay, or nobody wants to deal with you, okay? Nobody wants

03:29:19 7 to sell to you, nobody wants to deal to you.

03:29:22 8 The other reason he said he didn't elaborate regarding

03:29:26 9 Red is he didn't want to lose him as a source. He's got an

03:29:30 10 addiction that if he doesn't do it -- it's like brushing his

03:29:34 11 teeth. He's got to do it in the morning, he's got to do it

03:29:37 12 in the afternoon, or he gets sick. And if you take Red away

03:29:41 13 from him, he's in a bad predicament.

03:29:44 14 Also going to call Harry Karaplis. Harry's going to

03:29:48 15 take you through his relationship with Red and his

03:29:52 16 relationship with Jacob and Corey and their interdependence

03:29:58 17 during this period of time. He's going to tell you he lied

03:30:00 18 for really, you know, pretty much one reason: He didn't

03:30:01 19 want to go to jail. I think he -- he'll testify to -- and

03:30:05 20 you're going to judge his credibility.

03:30:06 21 And it's clear to me that, you know, the defense is

03:30:08 22 going to spend a lot of time bashing Harry, and rightfully

03:30:12 23 so in some respects. He wasn't completely truthful. He

03:30:17 24 impeded Sivert's investigation at the beginning, okay? I'm

03:30:21 25 not going to make excuses for the kid. He's going to take

03:30:24 1 the stand. But he's not a kid. He's going to take the
03:30:27 2 stand. And you need to use your tools of credibility that
03:30:29 3 you use in your everyday life to determine whether he's
03:30:31 4 telling you the truth or not. Okay?

03:30:34 5 What I will say though is, look at what he's telling
03:30:37 6 you and compare it to the records, okay? The records don't
03:30:42 7 lie. Look at the records, look at what he's telling you,
03:30:45 8 and compare it to what the phones say.

03:30:48 9 We'll also call Jacob Kunkle. He's a special agent
03:30:58 10 with the FBI. What we asked him to do is do what's
03:31:00 11 called -- it's called a CAST analysis. Basically what he
03:31:03 12 did was he took Harry's phone, Jacob's phone, and Red's
03:31:08 13 phone. And based upon the tower logs that he received from
03:31:11 14 the phone companies, he's going to tell you where those cell
03:31:15 15 phone moves throughout the course of the night. Okay?

03:31:17 16 And what he's going tell you is Jacob and Harry's
03:31:22 17 phone, it's consistent that they went to Red's house that
03:31:25 18 night because they're hitting almost dead on in Red's
03:31:30 19 location at approximately 12:30, 12:35. And it's consistent
03:31:35 20 that those two then left and they went back.

03:31:44 21 We'll also call Detective Tom Nimon and Sergeant
03:31:49 22 Heathcoat relative to the search that was done at
03:31:52 23 Mr. Davis's residence.

03:31:53 24 We'll also call James Hill, who lived at that
03:31:55 25 residence with Mr. Davis and knew him as Red.

03:31:59 1 Finally, we're going to call Casey Carty. He assisted
03:32:04 2 Detective Sivert in his investigation. And really what he
03:32:06 3 was tasked with was compiling all of these phone records.
03:32:11 4 Originally, Detective Sivert had that text message content
03:32:16 5 that we talked about, that three-day window for Jacob. And
03:32:20 6 he had also gotten some tolls.

03:32:21 7 Well, Detective Carty took it a step further. He got
03:32:25 8 the phone records for Jacob, for Corey. And then they did
03:32:29 9 what's called a Cellebrite dump of Mr. Davis's, Red's phone.

03:32:33 10 What's a Cellebrite dump? It's when you take that
03:32:37 11 phone and you just dump all that information basically onto
03:32:40 12 a disk. It picks up his text messages, his photographs, his
03:32:44 13 e-mails. Everything goes on there.

03:32:46 14 And what he did was in this investigation is he
03:32:48 15 created sort of a timeline chart for you. And you're going
03:32:51 16 to have that. And I ask you to look at it throughout this
03:32:53 17 case. And that chart is going to show the communications
03:32:57 18 that we were able to determine between Jacob, Harry, Corey,
03:33:02 19 and Red during the relevant time periods.

03:33:04 20 You're also going to hear that during that relevant
03:33:08 21 time period, he did not see any other source of supply for
03:33:15 22 Jacob, okay? There's no other text messages from Jacob that
03:33:20 23 indicate he was going to somebody else, okay? Red had the
03:33:24 24 best stuff, and the evidence is going to show that that's
03:33:28 25 where Jacob was going to go.

Opening by Plaintiff (Katsaros)

32

03:33:30 1 He's also going to tell you that the last text
03:33:33 2 message, the last sent thing, the last phone call on Jacob's
03:33:36 3 phone was when he texted Harry Karaplis after 12 -- at 12
03:33:42 4 a.m. when he was there and said, "Outside." He had come to
03:33:46 5 pick up Harry and he was outside his residence. That's the
03:33:49 6 last -- so there's no outgoing text messages after he
03:33:52 7 purchased. There's no phone calls after he purchased.

03:33:54 8 I would submit to you that when you look at that
03:34:03 9 chart, it's sort of the roadmap of this case, as I talked to
03:34:06 10 you about before, the phone records.

03:34:13 11 What I'm going to ask you to do in this case, ladies
03:34:15 12 and gentlemen -- and I thank you for your time and
03:34:17 13 attention. The most important thing I'm going to ask you to
03:34:19 14 do in this case is to use your common sense, okay? Use it
03:34:23 15 when you hear the witnesses. Use it when you assess the
03:34:28 16 evidence in this case. I ask you to use your tools of
03:34:31 17 credibility that you use in your everyday life to determine
03:34:36 18 if somebody's lying to you or telling you the truth, okay?
03:34:39 19 And then you take all those facts, okay, and you're going to
03:34:42 20 apply it to the law Judge Boyko gives you, okay?

03:34:45 21 And after doing that, you arrive at a verdict, okay?
03:34:48 22 And if we prove our case beyond a reasonable doubt, you find
03:34:53 23 Red guilty, Mr. Davis guilty. And if you don't, you find
03:34:57 24 him not guilty.

03:34:58 25 But I beg you in this case, please, please, use your

03:35:02 1 common sense. Use your common sense and look at the phones.

03:35:07 2 Thank you again.

03:35:09 3 THE COURT: Thank you, Mr. Katsaros.

03:35:14 4 Mr. Bryan on behalf of Mr. Davis.

03:35:16 5 MR. BRYAN: Thank you, Your Honor.

03:36:13 6 OPENING STATEMENT BY THE DEFENDANT

03:36:13 7 MR. BRYAN: In all the years I've been trying

03:36:16 8 cases, I don't know if I've ever had the same theme as the

03:36:19 9 Government in a trial. And I have to confess that after

03:36:24 10 hearing Mr. Katsaros's opening statement, we have the same

03:36:28 11 theme, because we too want you to follow the map that is

03:36:32 12 created by the phone records in this case. Because those

03:36:36 13 are the immutable pieces of evidence, the evidence that

03:36:39 14 doesn't change, the evidence that is just coldly calculated

03:36:42 15 as people use their cell phones over and over and over

03:36:46 16 again.

03:36:46 17 And we're confident that if you look at all of that

03:36:48 18 evidence, and not just the evidence that the Government

03:36:53 19 wants you to look at, you'll see a much different picture

03:36:56 20 than the picture that was portrayed by Mr. Katsaros' opening

03:37:00 21 statement. Because there's a lot more evidence than what

03:37:02 22 the Government collected.

03:37:04 23 From the very beginning of this case, they took the

03:37:06 24 word of a liar and they ran with it. Detective Buddy Sivert

03:37:13 25 from Lorain Police Department got the word of my client and

03:37:16 1 his nickname, Red, from Harry Karaplis and he ran with it.

03:37:21 2 And he had tunnel vision, tunnel focus, and looked right at
03:37:25 3 that information and didn't go anywhere else.

03:37:26 4 The fact is, there will be discussions in these text
03:37:30 5 messages that you see, ladies and gentlemen, where they are
03:37:32 6 talking about other sources of supply, other people who
03:37:36 7 provided drugs to them. Maybe they said Red's was the best,
03:37:40 8 but that doesn't mean that Red's was the only ones they were
03:37:43 9 using. Because, quite frankly, these were people,
03:37:46 10 especially Corey Stock, who had a multiple-time-a-day opioid
03:37:50 11 addiction.

03:37:51 12 And in the end of his life, Jacob Castro also appeared
03:37:55 13 to -- from the limited phone records that the Government
03:37:59 14 first collected and then from the larger phone records that
03:38:02 15 we collected over time, when the defense got involved in
03:38:06 16 this case, to demonstrate that Jacob Castro-White also had a
03:38:14 17 multiple-time-a-day opioid addiction as well. And we'll
03:38:17 18 acknowledge now, the evidence is going to be overwhelming
03:38:20 19 that one of the persons that they went to is our client,
03:38:23 20 Mr. Russell Davis.

03:38:25 21 But that just as equally, they were going to other --
03:38:28 22 not equally. You can count the number of people. And
03:38:32 23 Mr. Stock will testify, he had multiple sources of supply in
03:38:35 24 Lorain.

03:38:36 25 Mr. Karaplis will probably testify there were multiple

03:38:40 1 sources of supply in Lorain. And we'll talk about some of
03:38:43 2 those other sources of supply. Because Jacob Castro-White's
03:38:48 3 evidence was secured to a certain extent but not to a
03:38:51 4 grander extent. And that is because for whatever reason,
03:38:56 5 Detective Sivert just decided to ask for basically three
03:39:01 6 days worth of cell phone records, three days worth of text
03:39:07 7 messages from the cell phone provider.

03:39:08 8 He talked about the Cellebrite report that they ran on
03:39:14 9 Mr. Davis's phone. A Cellebrite is a very sophisticated
03:39:19 10 computer forensic analysis of a cell phone. It's basically
03:39:22 11 like a forensic computer analysis because a cell phone is a
03:39:26 12 computer.

03:39:27 13 And basically they did that with Mr. Davis's phone.
03:39:31 14 So they were able to not capture everything that was in his
03:39:34 15 phone but just about everything.

03:39:35 16 But you know what they didn't do? They didn't do a
03:39:38 17 Cellebrite analysis on Jacob Castro-White's phone. In fact,
03:39:43 18 not long after they made whatever attempts to see if they
03:39:47 19 could secure the content of the decedent's phone, they just
03:39:51 20 gave it back to his mother and let her do a factory sweep of
03:39:56 21 the phone, losing forever any data that could have been in
03:39:58 22 that phone.

03:39:59 23 You'll also hear that they -- the persons who were
03:40:04 24 last seen with Harry -- or last seen with the decedent,
03:40:08 25 Jacob Castro-White, the night before he died, the persons

Opening by Defendant (Bryan)

36

03:40:11 1 whom Detective Sivert had in his office with him, was
03:40:14 2 interviewing him, while he's holding his cell phone, they
03:40:17 3 never asked him, hey, can we have your cell phone so we can
03:40:20 4 do a computer sweep of your cell phone? They never asked
03:40:24 5 Corey Stock, can we have your cell phone so we can do a
03:40:28 6 computer sweep and a Cellebrite analysis of your cell phone?

03:40:31 7 The one thing we were able to do through subpoenas and
03:40:35 8 the like is we were able to get a lot of telephone records.
03:40:38 9 And you'll see not only the Government's chart but the
03:40:41 10 defense has a demonstrative exhibit as well. And those
03:40:44 11 charts will show multiple telephone contacts between these
03:40:50 12 three individuals: Jacob Castro-White, Corey Stock, and
03:40:54 13 Harry Karaplis. But they'll also show tremendous amounts of
03:40:59 14 interactions with other suspected drug traffickers; in fact,
03:41:02 15 people that are mentioned in that two-day window of text
03:41:09 16 messages.

03:41:10 17 Specifically, there's a person that you'll learn by
03:41:13 18 the name of Erika Matus. She too was a drug user, someone
03:41:19 19 who had a multiple-time-a-day opioid addiction. And part of
03:41:22 20 her ability to maintain that addiction was that she would
03:41:26 21 possess drugs and then she would sell them to others as
03:41:28 22 well. And you'll see in these cell phone records, in these
03:41:34 23 two or three days of text messages, they're not only talking
03:41:38 24 about Mr. Davis but them talking about an Erika Matus as
03:41:41 25 well.

03:41:41 1 And you'll also see from these records that Mr. Davis
03:41:44 2 isn't extremely reliable when it comes to meeting up with
03:41:50 3 these young men to sell them their 30 or \$50 worth of
03:41:53 4 heroin, that there are many times where they're attempted to
03:41:56 5 grab from Red but they're unable to do so because he doesn't
03:41:59 6 answer their calls or he'll answer and hang up or he'll fall
03:42:04 7 asleep or they'll talk about how he likes to spend time with
03:42:08 8 ladies of the evening. They'll refer to them as hookers,
03:42:12 9 prostitutes. And that Red frequently, you know, disappoints
03:42:17 10 them.

03:42:19 11 And specifically you'll hear this, right in the day
03:42:25 12 before Jacob Castro died, on the 6th, when they're trying to
03:42:29 13 meet up with Mr. Davis, you have Corey Stock and Jacob
03:42:40 14 Castro-White talking back and forth with each other. And
03:42:42 15 Jacob Castro-White is waiting for Corey Stock to allegedly
03:42:46 16 come back from purchasing drugs from Mr. Davis.

03:42:50 17 And he says, "On my way to you, pulling up. You on
03:42:54 18 your way back?" That's Jacob Castro-White asking Corey
03:42:59 19 Stock, "Are you on your way back?"

03:43:01 20 And his response was, "No. I think this nigga fell
03:43:05 21 asleep. He picked up the phone, then hung up. Unless he's
03:43:09 22 doing something and couldn't talk."

03:43:14 23 And Jacob Castro-White, the decedent in this case
03:43:19 24 is -- his response to that was, "Dammit, fuck him."
03:43:27 25 "Dammit, fuck him." Fuck Russell Davis. Because these are

03:43:30 1 people that were looking for their next fix.

03:43:32 2 And so what do you do when you can't get the fix from
03:43:35 3 the guy that you're hoping to get it from? You go and try
03:43:37 4 to find it from somebody else. And you'll see that sort of
03:43:40 5 same pattern repeat itself later on.

03:43:43 6 And again, this is why the cell phone records and the
03:43:44 7 telephone records are so important in this case, because
03:43:46 8 they are a roadmap to a conclusion in this case. And it's
03:43:52 9 not a roadmap to conviction. It's a roadmap to exoneration
03:43:56 10 as it relates to the most important allegation in this case.
03:44:01 11 And that's the allegation that Mr. Davis sold drugs at
03:44:06 12 approximately 12:34 a.m. on March 7, 2016, to Harry
03:44:13 13 Karaplis, and that Harry Karaplis shared those drugs with
03:44:17 14 Jacob Castro-White.

03:44:18 15 Even in my opening statement I'm going to get into
03:44:22 16 some more detail there. But I think it's important to point
03:44:25 17 out a couple more of these texts. And you'll have them all,
03:44:28 18 the ones that we have. Unfortunately, you won't have the
03:44:31 19 ones that the police never attempted to secure.

03:44:35 20 You know, even just a couple more days prior of Jacob
03:44:42 21 Castro-White's text messages could have revealed a map or,
03:44:45 22 excuse me, a puzzle that is much different than the puzzle
03:44:48 23 that the Government wants you to believe.

03:44:51 24 But anyway, you have Jacob Castro-White and Corey
03:44:54 25 Stock talking back and forth to one another. And I'm

03:44:56 1 actually reading from the Government's exhibit at this
03:45:03 2 point.

03:45:05 3 And it's Jacob Castro-White reaching out to Corey
03:45:10 4 Stock at around 9:51 on March 6. And dates are going to
03:45:15 5 become important. You'll have notebooks. So it's really
03:45:19 6 important to keep track of the dates and keep track of your
03:45:21 7 own timeline in this case because even though it happened
03:45:24 8 over a very short period of time, basically a period of
03:45:27 9 about two days or even 12 hours, the most important stuff in
03:45:30 10 this case, it's really important to really keep track of the
03:45:35 11 timing literally down to the minute. And thankfully the
03:45:38 12 cell phone records and the telephone records will help us do
03:45:42 13 that to a great extent. But when you're listening to the
03:45:44 14 evidence, it's really important to look at the timing of
03:45:47 15 everything here.

03:45:48 16 And so Jacob Castro-White at 9:51 p.m. says, "You
03:45:54 17 grabbing at all" to Corey Stock. He said, "I already did
03:46:01 18 around 7:30."

03:46:02 19 And Castro-White responds to that, "Ah, fuck, you
03:46:06 20 should have texted me. Anyone else looking to grab or
03:46:08 21 anything? I didn't think you'd" --

03:46:10 22 And then Corey Stock says to Castro-White, "I didn't
03:46:12 23 think you were able to spend another 50," another \$50.

03:46:16 24 And he says, "I could have spent, like, 30, 40. Still
03:46:20 25 couldn't get you anything for that just cause me and Doug,

Opening by Defendant (Bryan)

40

03:46:25 1 we get a half."

03:46:27 2 And so they go on and they continue to talk. And they
03:46:31 3 said -- you know, and they say, "2 1/2 points is barely
03:46:34 4 enough for someone to do with tolerance as high as ours.
03:46:37 5 And he wouldn't do that."

03:46:39 6 And then Jacob Castro-White says -- and it's really
03:46:42 7 important to keep the names straight too. As long as I've
03:46:45 8 been working on this case, and I'll probably do it during
03:46:49 9 this trial, I frequently will interchange the different
03:46:53 10 parties' names in this case, usually calling someone Jacob
03:46:57 11 when I meant to say Corey or whatever. But I'm sort of
03:47:01 12 warning you in advance as you hear the evidence, it's
03:47:03 13 important to sort of keep track of who we're talking about
03:47:06 14 at various stages of this trial.

03:47:09 15 And said, so anyway -- they said, "Well, if you threw
03:47:13 16 down with us, there wouldn't have been enough."

03:47:15 17 And then Castro-White says, "Ah, fuck, I feel it."

03:47:19 18 And then he said, "I could have done 40. I know he
03:47:21 19 wants it also though."

03:47:26 20 And so what's important in response to that, at around
03:47:29 21 10:23 p.m. -- at 10:23 p.m. Corey Stock says to
03:47:34 22 Castro-White, "I can ask Erika if they have some extra to
03:47:39 23 sell, but you probably won't feel it at all. I did a 2 1/2
03:47:47 24 point shot over their house yesterday. Didn't feel a
03:47:51 25 thing."

03:47:51 1 And I think it's important at this stage to explain to
03:47:56 2 you a little bit more about where people are located in
03:47:59 3 Lorain or in Lorain County. So I am going to walk over to
03:48:06 4 the ELMO. This is going to be an exhibit that's going to be
03:48:09 5 introduced in trial. And you'll see a lot of maps in this
03:48:11 6 case, and these maps are important as well.

03:48:20 7 But anyway, this is a Google map. Is that blurry or
03:48:24 8 is that just my eyesight? Is it better now?

03:48:29 9 Okay. There's actually a log. I'd like to see the
03:48:33 10 map right now.

03:48:36 11 But anyway, and the Government will present a lot of
03:48:38 12 map evidence as well because they have this cell tower
03:48:41 13 expert who's going to talk about, you know, where people
03:48:44 14 were when the calls were being made, what general area they
03:48:47 15 were, were they near their home, were they not near their
03:48:50 16 home. And some of that evidence is actually going to be
03:48:53 17 kind of interesting when we get into the early morning hours
03:48:55 18 of the morning that Jacob Castro-White passed away.

03:49:00 19 But anyway, what you see here are five residences.
03:49:05 20 The first residence down here in the southwest is -- I guess
03:49:11 21 I'll do it this way -- is Corey Stock. That's where Corey
03:49:14 22 Stock lives. He lives just down the road from Jacob
03:49:19 23 Castro-White. And this is Jacob Castro-White's home, who
03:49:22 24 lives just down the road from Harry Karaplis, or at the time
03:49:25 25 this is where Harry Karaplis was living.

03:49:28 1 And the person all the way in the far northeast corner
03:49:31 2 is where Russell Davis was living at the time. And the
03:49:35 3 person's house that's depicted just to the west of that by
03:49:40 4 about a half a mile is Erika Matus's home, 20th Street in
03:49:46 5 Lorain County, Ohio.

03:49:47 6 And so anyway, when you start looking at all the
03:49:52 7 evidence including the text message exchanges, not only
03:49:56 8 between Corey Stock and Jacob and Corey Stock and Harry,
03:50:04 9 you're going to see a lot of activity taking place between
03:50:07 10 Corey Stock and Erika, this person that he asked Jake, "Do
03:50:11 11 you want me to call Erika and see if they have anything as
03:50:18 12 well?"

03:50:18 13 And what you will find is that Jake goes home and
03:50:21 14 says, "No, no, I'll just wait for Red." And that's what,
03:50:24 15 excuse me, Mr. Katsaros told you earlier, that he was just
03:50:27 16 going to wait on Red.

03:50:28 17 And not long after that, he actually gets a phone
03:50:31 18 call -- actually a text message from Harry Karaplis asking
03:50:34 19 him if he could give him a ride to the gas station.

03:50:39 20 And one of the things you'll hear from this society of
03:50:43 21 drug users is that in Lorain you can get drugs basically
03:50:47 22 anywhere. A lot of dealers are dealing near gas stations,
03:50:50 23 on street corners and things of that nature. I'm not
03:50:52 24 suggesting that he wanted drugs from the gas station, but
03:50:56 25 that's just what the text message was.

03:51:01 1 But anyway, he then -- Jake is saying, well, no,
03:51:04 2 sorry, I'm at my buddy Don's house. I just got here. You
03:51:08 3 know, we just started smoking. And what they -- they were
03:51:11 4 smoking marijuana together.

03:51:12 5 But after a while, Jake then texts to Harry, "Are you
03:51:16 6 looking to throw down tonight?" And Harry's like, well,
03:51:21 7 yeah, I may be interested in doing that. And so admittedly,
03:51:25 8 you'll see some phone records where Harry tries to call
03:51:27 9 Mr. Davis.

03:51:32 10 And there are phone records back and forth, and
03:51:34 11 there's even some phones that would suggest that there's
03:51:36 12 some connect time.

03:51:37 13 When it comes to these phone records, that's another
03:51:40 14 concept that's going to be very important that you keep an
03:51:44 15 eye on in this case, and that is connect time. Because
03:51:48 16 there are phone records from one provider that says the call
03:51:51 17 was connected for 13 seconds, and another one from another
03:51:55 18 provider that says the call was connected for 6 seconds.
03:52:00 19 And the cell phone experts will testify in this case that
03:52:02 20 connect time doesn't necessarily mean a conversation took
03:52:05 21 place because cell phones connect to one another and
03:52:11 22 sometimes calls get rerouted. And it doesn't necessarily
03:52:13 23 mean that there was an actual conversation. And you're
03:52:16 24 going to see that -- you'll be able to see that from even
03:52:19 25 the calls that Harry Karaplis makes to Jacob Castro-White

03:52:23 1 when he starts looking for him in the middle of the night.

03:52:26 2 None of those calls get answered, but all of them will

03:52:29 3 have, like, two seconds or four seconds or five second,

03:52:32 4 quote, connect times because the cell phones are connecting

03:52:35 5 up even though the persons aren't speaking to one another.

03:52:38 6 So don't -- that connect time issue is going to be really

03:52:41 7 important as well.

03:52:48 8 The bottom line is is that you're going to have to

03:52:51 9 rely on Harry Karaplis and his veracity or lack thereof of

03:52:56 10 what happened after 12:34 a.m. He's actually told multiple

03:53:03 11 stories about what happened after 12:34 a.m.

03:53:08 12 But basically when you follow the phone evidence in

03:53:10 13 this case, you'll see that at around 2:41 a.m., Harry

03:53:18 14 Karaplis starts calling Jacob Castro-White, and he starts

03:53:21 15 calling him over and over and over again. And he calls him

03:53:27 16 and he texts him a couple times in there and says, yo, you

03:53:31 17 know, what's up, you know, dude, please give me a call, you

03:53:34 18 know, that kind of stuff.

03:53:35 19 One thing he never says in those text messages, yo,

03:53:39 20 why did you take my money, dude, or anything like that. He

03:53:42 21 doesn't say anything like that. He's just like, you know,

03:53:45 22 please, you know, call me. Then he proceeds to call him

03:53:48 23 feverishly over like -- 16 times over like a five-minute

03:53:53 24 period of time.

03:53:55 25 And it may seem complicated at times, the evidence in

03:53:56 1 this case, especially the cell tower stuff, but there's
03:53:59 2 going to be evidence that Jacob Castro-White's phone, when
03:54:02 3 it was receiving all those calls from Harry Karaplis, was
03:54:06 4 actually not in the cell tower sector where his home was but
03:54:13 5 in the cell tower sector east of where his phone was. And
03:54:17 6 there may be some conflicting expert testimony about what
03:54:20 7 that means. But it's going to be interesting, to say the
03:54:25 8 least.

03:54:25 9 The other thing is when Harry Karaplis is making those
03:54:29 10 calls, his phone is going to be hitting a cell tower that
03:54:33 11 isn't anywhere near -- well, actually, I shouldn't
03:54:36 12 characterize it that way. It's not the nearest cell tower
03:54:39 13 to where he claims he was at the time, which was at home.
03:54:42 14 Because the story that he eventually tells talks about
03:54:47 15 falling asleep, waking up, Jake being gone, so on and so
03:54:53 16 forth.

03:54:53 17 But anyway, what happens then, when you follow the
03:54:56 18 phone records, is throughout the night there's really no
03:54:58 19 activity until, you know, the morning hours again, around 6
03:55:03 20 a.m. And it's Harry Karaplis again trying to get ahold of
03:55:09 21 Jacob Castro-White. And he again calls and texts him maybe
03:55:12 22 16 times. You'll see every call and every text and --
03:55:18 23 during that period of time.

03:55:18 24 And then he starts sort of calling around to other
03:55:21 25 people. And you'll see that there's a call to Corey Stock,

03:55:23 1 but it's a real small connection time, like two or three
03:55:27 2 seconds, so it's probably a missed call. Corey Stock was
03:55:31 3 still probably sleeping at that time. And then you'll see
03:55:34 4 him start calling, like, his girlfriend and things like
03:55:36 5 that.

03:55:38 6 And then around in the 9:00 hour you'll see people
03:55:45 7 calling Harry Karaplis that are at the time at Jacob
03:55:51 8 Castro-White's house. Because as Mr. Katsaros said, at
03:55:53 9 around 6:50 a.m. Mr. Castro-White's mother tragically found
03:55:59 10 him deceased. When she came out of her room in the morning,
03:56:06 11 she noticed that her son's light was on in his room, and so
03:56:10 12 she entered his room to see what was going on.

03:56:13 13 He was lying face down on his bed, and so she went
03:56:16 14 over to try to rustle him, and she couldn't wake him up.
03:56:21 15 Then she called the authorities and suffered every parent's
03:56:25 16 worst nightmare.

03:56:26 17 But objectively and carefully evaluating the evidence
03:56:29 18 in this case, you have to look at, again, these phone calls.
03:56:32 19 Because what's Harry Karaplis doing at that time is now
03:56:35 20 there's a person who's at the home at the time, another
03:56:39 21 friend, a person by the name of Brian Stoll. And Brian
03:56:42 22 Stoll you'll find out is a good friend of Jacob
03:56:45 23 Castro-White's. And he's not friends with Jacob because
03:56:49 24 they abuse heroin together. You'll find out through the
03:56:52 25 evidence in this case that Jacob was also an avid

03:56:56 1 bodybuilder, that he liked to lift weights and enter
03:56:59 2 competitions and had really big muscles. And Brian Stoll
03:57:04 3 was the same way. He was an avid bodybuilder and probably
03:57:08 4 Jacob Castro-White's truest friend.

03:57:13 5 Notwithstanding that, they still had a problem
03:57:16 6 together: They abused anabolic steroids. So in addition to
03:57:19 7 abusing illegal drugs, Mr. Castro-White was abusing anabolic
03:57:24 8 steroids. And you'll also learn from the evidence in this
03:57:27 9 case that part of trying to look better for competitions is
03:57:31 10 taking things like high blood pressure medication so your
03:57:33 11 veins will pop, taking thyroid medication so that you get a
03:57:40 12 quick fat burn before a competition so your muscles look
03:57:44 13 more ripped, things of that nature.

03:57:46 14 So in addition to abusing heroin and having an opioid
03:57:49 15 addiction, the evidence will be clear that Castro-White has
03:57:52 16 other addictions as well. Also other illicit drugs,
03:57:58 17 including methamphetamine, including marijuana, including
03:58:03 18 cocaine, just about anything you can think of. And the
03:58:06 19 medical records will also reflect someone who's abused
03:58:09 20 drugs, multiple types of drugs over an extended period of
03:58:12 21 time.

03:58:12 22 But anyway, when Brian Stoll is sitting there with law
03:58:17 23 enforcement in the morning trying to figure out who was last
03:58:20 24 with Jacob Castro-White, he says, you know, here's Harry
03:58:25 25 Karaplis is calling me now. And so he's like, well, call

03:58:28 1 him back. The law enforcement says call him back. And law
03:58:31 2 enforcement officers call Harry Karaplis on Brian Stoll's
03:58:35 3 phone. You'll see that record as well. And there's a
03:58:41 4 multiple-minute conversation that takes place.

03:58:42 5 Immediately -- and this is where you've got to follow
03:58:44 6 the map of the phone records. Immediately following that
03:58:47 7 call, Harry Karaplis, which has obviously now just been
03:58:53 8 advised that whatever your concerns about your friend were,
03:58:57 9 your worst nightmare is coming true. Your friend is dead.
03:59:02 10 And so he reaches out in an effort to contact Corey Stock.

03:59:05 11 And you'll see three calls to Corey Stock, and you'll
03:59:08 12 learn that those calls are short connection times too, just
03:59:11 13 a couple of seconds. And Corey Stock I believe will testify
03:59:14 14 that he actually was in the shower during that period of
03:59:18 15 time.

03:59:19 16 So Harry Karaplis then will start calling his
03:59:24 17 girlfriend, Amanda. And she answers a call, and there's a
03:59:28 18 multiple-minute telephone call. And then right after that
03:59:31 19 he finally gets ahold of Corey Stock at around 9:23 a.m.,
03:59:36 20 and they have a couple-of-minute long telephone call. And
03:59:38 21 that's when Corey Stock is being advised by Harry Karaplis,
03:59:44 22 Jake died, Jake is dead.

03:59:47 23 Well, as soon as Corey Stock gets off the phone with
03:59:54 24 Harry Karaplis, he doesn't call Mr. Russell Davis. The
04:00:01 25 first person he calls is Erika Matus. And they continue to

04:00:08 1 talk to one another a lot. I mean, we don't know what
04:00:10 2 they're saying. We don't -- they text each other a lot
04:00:12 3 during this period of time. We don't know what the text
04:00:14 4 messages say because nobody preserved that evidence, nobody
04:00:16 5 preserved those records. But the connection goes from Harry
04:00:20 6 Karaplis to Corey Stock to Erika Matus, who then calls her
04:00:27 7 best friend. And that's where the phone records lead in
04:00:29 8 this case.

04:00:30 9 Mr. Katsaros is correct, the medical examiner comes
04:00:35 10 in -- and I don't want to confuse the issues in this case,
04:00:40 11 but there are two very important issues in this case. The
04:00:45 12 first issue is whether or not Mr. Davis distributed Fentanyl
04:00:49 13 on March 7, 2016, to Harry Karaplis, who then gave the
04:00:56 14 Fentanyl to Jacob Castro-White.

04:00:59 15 The second issue is did Jacob Castro-White then ingest
04:01:05 16 that particular Fentanyl and did that result in his death.

04:01:10 17 Well, true to law enforcement's nature as it related
04:01:13 18 to preserving the phone evidence in this case and evidence
04:01:17 19 of other potential drug contacts that Jacob Castro-White
04:01:22 20 could have gone to, they make a similarly poor effort to
04:01:28 21 determine the cause and manner of death. Because, you know,
04:01:35 22 the coroner, the Lorain County coroner, he knows better than
04:01:39 23 anybody else. He's seen this over and over again.

04:01:41 24 The guy has got a foam cone, which it's a very
04:01:44 25 disturbing appearance. I'm sure the Government will show

04:01:47 1 you pictures of it, of this young man lying on the ground
04:01:49 2 with foam, blood-tinged bubbles in his mouth. And they say,
04:01:55 3 well, that's indicative of a drug overdose.

04:01:57 4 Well, what it's indicative of, and you'll hear from
04:02:01 5 other experts in this case, is a condition known as
04:02:04 6 pulmonary edema. That's basically when your lungs start to
04:02:09 7 swell because your respirations are starting to slow and
04:02:11 8 because your heart is still continuing to beat even at
04:02:15 9 slower and slower rates, that as people are dying -- and
04:02:18 10 there are other things other than drug overdose that can
04:02:22 11 cause pulmonary edema. Anything that would cause pulmonary
04:02:27 12 edema would cause a foam cone.

04:02:29 13 Well, the way that you rule out other potential causes
04:02:33 14 and manners of death usually in a homicide case is you
04:02:39 15 perform an autopsy. And this is another instance where law
04:02:42 16 enforcement chose to take the shortcut. Well, we know it's
04:02:48 17 a drug death. We'll declare it a drug death through the
04:02:52 18 county coroner. And they never performed an autopsy in this
04:02:54 19 case. So there was no way to rule out other potential
04:02:57 20 causes of death, an aneurysm which also could cause a
04:03:01 21 pulmonary edema, an aneurysm that could be caused by
04:03:04 22 increased blood pressure because of abuse of anabolic
04:03:08 23 steroids. Even a cardiomyopic condition where your heart
04:03:16 24 gets changed because of abuse of anabolic steroids and
04:03:21 25 things of that nature. And other forms of natural causes of

04:03:24 1 death that were never ruled out in this case because they
04:03:29 2 know best and they know how this young man died but did not
04:03:36 3 give him the dignity of a thorough death examination but
04:03:44 4 just trust law enforcement.

04:03:44 5 So I don't want to belabor that because it almost
04:03:46 6 sounds like we're conceding the first part, but we're not
04:03:51 7 because the evidence doesn't prove -- in fact, the evidence
04:03:53 8 shows that Russell Davis did not distribute that most
04:03:58 9 important last dose of opioid that Mr. Castro-White, Jacob
04:04:09 10 Castro-White, consumed before he died.

04:04:14 11 Law enforcement basically tried to figure that out,
04:04:21 12 once they got the name Red, once they saw this two days
04:04:25 13 worth of text messages and saw them, quote, talking about
04:04:27 14 Red, even though in that two-day area of text messages
04:04:32 15 they're also talking about Erika and also talking about a
04:04:35 16 guy named A, you know, A's drugs and talking about other
04:04:38 17 sources of supply, they zeroed in on Red. And they zeroed
04:04:43 18 in on Red in part because of the phone records but also
04:04:47 19 because Harry Karaplis.

04:04:49 20 So what happens when Harry's interviewed the day that
04:04:53 21 Jacob dies? He comes into the Lorain County police station,
04:05:00 22 he sits down with Buddy Sivert in a very nonthreatening
04:05:04 23 manner and he lies. He lies like crazy. He doesn't even
04:05:07 24 say that he was involved with drugs. He lies about even
04:05:11 25 being a drug user. In fact, he tries to portray himself as

04:05:16 1 this hero. And what he says is like, yeah, I used to use
04:05:20 2 drugs in the past, but I stopped a long time ago because I
04:05:24 3 knew they were bad for me. And I was trying to get my
04:05:29 4 friend Jake off of drugs because I knew they were bad for
04:05:31 5 him too.

04:05:33 6 And Harry is also a bodybuilder. He says, it goes
04:05:36 7 against everything we stand for, you know, health and
04:05:39 8 good-looking bodies and all that kind of stuff. And so I
04:05:41 9 wasn't doing that anymore. Jake was still an addict, but I
04:05:45 10 wasn't doing that anymore. So when he called me that night
04:05:48 11 and said, hey, you want to go grab, I said, yeah, why don't
04:05:52 12 you come over. But I wasn't going to go grab with him.
04:05:55 13 What I wanted to do was I wanted to talk him out of going
04:05:59 14 and grabbing.

04:05:59 15 This is the tale that he spins with Detective Sivert
04:06:04 16 at that time. I want to -- I was going to talk him out of
04:06:06 17 it. So we sat down and started watching SportsCenter and,
04:06:11 18 you know, I soon dozed off. And then when I woke up two and
04:06:16 19 a half hours later, I noticed that Jake was gone and my
04:06:20 20 wallet had been moved. And here my best friend, he stole
04:06:23 21 \$40 out of my wallet, and then he left.

04:06:28 22 And so he continues to portray Jacob Castro-White as
04:06:31 23 this drug fiend who had this desperate drug problem while
04:06:37 24 calling himself basically the standup friend who was trying
04:06:40 25 to keep him from doing that.

04:06:44 1 Well, during the conversation, hoping that law
04:06:49 2 enforcement would buy the story -- and in fact, I would
04:06:52 3 suggest that the evidence will show Detective Sivert did buy
04:06:55 4 the story, that he did believe, you know, this strapping
04:07:00 5 young man that he was trying to do the right thing, Harry
04:07:07 6 goes on to say -- he says, you know, do you know where Jake
04:07:10 7 was getting his drugs from?

04:07:11 8 And Harry goes, I think this guy was named Red.

04:07:14 9 He's like, well, do you know who Red is?

04:07:16 10 He says, no, I've never seen him before. That's
04:07:19 11 Jake's connect. That was Jake's connect. That's his guy
04:07:24 12 that he went and got drugs from. But I don't know where he
04:07:26 13 lives, I don't know where he's -- and so on and so forth.
04:07:28 14 So that's the first story that he tells.

04:07:32 15 When Sivert gets the text messages and sees that
04:07:36 16 they're talking about the drugs, he tells a second story --
04:07:39 17 actually, he doesn't really tell the second story. Sivert
04:07:41 18 confronts him, and he sits there and just stares at him.
04:07:44 19 And then Sivert's like, hey, you know, what's going on here?
04:07:48 20 And Harry looks back at him and he says, do you think I need
04:07:52 21 a lawyer? And Sivert says, yeah, you better get a good one.
04:07:57 22 And he grabs his stuff and he walks out of the room.

04:07:59 23 Well, that's what Harry did. He went out and, quote,
04:08:04 24 got a good lawyer. And Sivert told his lawyer, all I want
04:08:08 25 to know is where they bought the drugs. You know, Harry's

04:08:10 1 not in trouble, Corey's not in trouble, all these people
04:08:13 2 that were helping Jake get drugs aren't in trouble. But the
04:08:16 3 person that I want to know is where they are getting the
04:08:18 4 drugs. And since he had already threw out this innocuous
04:08:25 5 name Red to the law enforcement officers, he continued along
04:08:27 6 that story line.

04:08:27 7 Why didn't he come clean and say he got it from
04:08:30 8 someone else at that time? Well, Red didn't go to school
04:08:35 9 with these kids. They didn't all grow up in Amherst
04:08:38 10 together like Erika Matus did and Corey and Jake and Harry.
04:08:42 11 They weren't all Facebook friends together. You know, Red
04:08:45 12 wasn't -- I don't even think he uses Facebook. If he does,
04:08:48 13 I don't know about it. But he's not Facebook friends with
04:08:50 14 these kids or whatever.

04:08:52 15 You'll see that these are a pretty close-knit group of
04:08:56 16 kids of -- you know, people who were at least during that
04:09:00 17 period of time abusing drugs together.

04:09:01 18 And so, again, I agree with Mr. Katsaros, let's follow
04:09:09 19 the phone evidence in this case. And when you do that,
04:09:16 20 you'll come to a conclusion that as strange as it seems,
04:09:22 21 when it appears that there's all this evidence that it's
04:09:25 22 coming from Red, that the phone evidence in this case gives
04:09:32 23 an alibi to the only person in Lorain who is dealing drugs
04:09:41 24 at that time, the person that is sitting here at trial
04:09:47 25 today. And it's pretty straightforward.

Opening by Defendant (Bryan)

55

04:09:51 1 MR. CORTS: Your Honor, may we approach for a
04:09:53 2 second?

04:09:53 3 THE COURT: Yes.

04:09:54 4 (At Side Bar.)

04:10:01 5 MR. CORTS: Your Honor, he can't use the term
04:10:04 6 "alibi."

04:10:04 7 THE COURT: No.

04:10:05 8 MR. CORTS: And that's totally improper. I

04:10:07 9 know it was in the heat of the moment. I don't take it

04:10:10 10 against Ed. You know, I don't think he did it purposely.

04:10:14 11 Because he can't use the term "alibi" because he hasn't

04:10:17 12 filed an alibi. You know, there's a law that says you have

04:10:19 13 to file an alibi. That's the only reason I bring that up.

04:10:21 14 MR. BRYAN: It's a figure of speech.

04:10:22 15 THE COURT: I understand that too, but clarify
04:10:23 16 it for the jury. Just clarify that.

04:10:25 17 MR. BRYAN: I will.

04:10:25 18 THE COURT: How much longer?

04:10:26 19 MR. BRYAN: I'm wrapping up, Your Honor.

04:10:28 20 MR. CORTS: You understand that?

04:10:29 21 MR. BRYAN: Yeah, I understand.

04:10:31 22 THE COURT: We have -- who is the first
04:10:32 23 witness? Holly Litz?

04:10:32 24 MR. CORTS: Holly Litz.

04:10:36 25 THE COURT: How long do you think she'll be?

Opening by Defendant (Bryan)

56

04:10:37 1 MR. CORTS: 30 minutes.

04:10:37 2 THE COURT: That's -- we're going to cut off

04:10:42 3 because they've been here so long. So probably quarter of 5

04:10:44 4 or so you've got to wrap up.

04:10:44 5 MR. CORTS: Okay. I mean, Judge, if you want

04:10:45 6 them to come back tomorrow, we can come back tomorrow.

04:10:47 7 THE COURT: Well, let's do her. We can do her

04:10:48 8 in 30 minutes. We can do her.

04:10:52 9 Ed, Darin, is cross going to be long on the first

04:10:57 10 witness, this Holly Litz?

04:10:59 11 MR. BRYAN: Probably not. I mean, to be

04:11:01 12 honest --

04:11:02 13 THE COURT: Okay. Think we can get her out of

04:11:04 14 here in about a half hour?

04:11:06 15 MR. BRYAN: Yeah, I mean, if their direct's

04:11:09 16 15, 20 minutes.

04:11:10 17 THE COURT: Let's get her done and we'll call

04:11:12 18 it a day.

04:11:13 19 MR. CORTS: Thanks, Judge.

04:11:14 20 (In Open Court.)

04:11:21 21 MR. BRYAN: As the judge indicated, opening

04:11:23 22 statements are just that, they're opening statements.

04:11:26 23 They're not supposed to be considered argument. And when I

04:11:30 24 used the word "alibi," my -- I was being sort of

04:11:35 25 argumentative. And so it's also a legal term, so it was

04:11:38 1 inappropriate for me to use that word at this stage.

04:11:41 2 But the point that I'm about to make with I think a
04:11:47 3 very important exhibit in this case is a phone record, and
04:11:50 4 it's Russell Davis's phone record. And it's his phone
04:11:53 5 record for the night and the morning of March 7, 2016. And
04:12:00 6 again, I'll show this to you on the overhead. And it's also
04:12:09 7 in the Government's exhibit, at least the text message
04:12:11 8 that's associated with this phone record.

04:12:20 9 You'll hear evidence in this case that the
04:12:25 10 440-506-7354 number is Harry Karaplis's telephone number.
04:12:31 11 You'll also hear evidence in this case that the 216-526-8810
04:12:37 12 number is Russell Davis's telephone -- cell phone number.

04:12:41 13 And you'll see that the first highlighted call is a
04:12:45 14 call that occurred -- it begins at 12:34 a.m., 51 seconds.
04:12:54 15 And it's listed as -- this is Russell Davis's cell phone
04:12:58 16 record. And so it's listed as an inbound call.

04:13:01 17 And what it means is that Harry Karaplis is calling
04:13:03 18 Russell Davis at that time. And you'll see that there's
04:13:06 19 this third number. And the cell phone experts will say that
04:13:10 20 that third number is sort of like a routing number. And
04:13:13 21 you'll also see that it says that the duration in seconds on
04:13:17 22 Russell Davis's tolls is 13 seconds.

04:13:20 23 Well, when you look at Harry Karaplis -- I don't have
04:13:22 24 that exhibit. It will be an exhibit during trial. I don't
04:13:25 25 have it up here for purposes of this opening statement.

04:13:28 1 When you look at his phone records for the same time
04:13:31 2 period, you'll actually see two things around the 12:30 --
04:13:37 3 at the time of 12:34. Actually, there's one call before it
04:13:41 4 around 12:32. And what it's going to show from Harry
04:13:47 5 Karaplis's phone records is that it was a call to Russell
04:13:49 6 Davis's number that did not connect, so it was a call that
04:13:52 7 he did not get through to Russell Davis.

04:13:56 8 What you will see is that then there's a call from
04:14:05 9 Russell Davis to Harry Karaplis at 12:31:38. And so then at
04:14:13 10 the 12:34:51 in Harry Karaplis's phone records, you'll see
04:14:18 11 that that connect time says 6 seconds in Harry Karaplis's
04:14:25 12 phone records.

04:14:25 13 What's important to note about basically this early
04:14:28 14 morning hour and in the morning hours of these phone records
04:14:31 15 is what follows that. You know, there's another inbound
04:14:35 16 call at around 1:07:19, and it reflects a duration of 11
04:14:43 17 seconds. But there's no evidence that there was any real
04:14:45 18 voice or discussion there. It just was connect time on
04:14:50 19 Russell Davis's cell phone.

04:14:52 20 And then there's a call, an inbound actually text
04:14:57 21 message at 1:19 a.m., and then in the highlighted version
04:15:03 22 another inbound text message at 8:15 in the morning.

04:15:06 23 And what you'll learn from the experts in this case is
04:15:10 24 the next series of activities are text messages. And the
04:15:15 25 text messages are basically three. Actually, there's more

04:15:19 1 than that, but for what I'm explaining to you at this time
04:15:24 2 is that it says 10:21, but the experts will tell you that
04:15:29 3 that time is actually 11:21 because for whatever reason,
04:15:34 4 Sprint's cell phone records are Eastern time for telephone
04:15:37 5 calls but Central time for text messages. And we'll get
04:15:43 6 through all of that together in this case. There is a lot
04:15:45 7 of confusion about records, but we will clarify all of that.

04:15:49 8 And so what you have then, beginning at 10:21:03 a.m.,
04:15:56 9 is a series of Russell Davis initiated things. You see that
04:16:02 10 it says "outbound." So 10:21:03, Russell Davis's outbound
04:16:10 11 telephone call -- it's actually an outbound text message, is
04:16:15 12 to one of the text messages that he missed the night before,
04:16:18 13 which is the 258 number.

04:16:20 14 And then you'll see that the next text message that
04:16:23 15 Russell Davis sends, literally not even 20 seconds after
04:16:29 16 that is a text message from the 714 number, the number that
04:16:35 17 had texted him also that morning. And then the third text
04:16:41 18 message that you'll see that occurred literally within the
04:16:44 19 same minute was a text message from Russell Davis's phone --
04:16:51 20 actually from Russell Davis's phone to Harry Karaplis's
04:16:54 21 phone. And you'll see that. It's the same number that
04:17:00 22 called him at 12:34 a.m., at 10:21:56 a.m.

04:17:04 23 We do have what that text message says. And what that
04:17:08 24 text message says was two words: "Was sleep." "Was sleep."
04:17:20 25 So just as like the day before when Corey Stock told Jacob

Opening by Defendant (Bryan)

60

04:17:28 1 Castro-White, he hung up on me, may have went back to sleep,
04:17:37 2 Russell Davis's first response to the last call that he got
04:17:40 3 from Harry Karaplis was "Was sleep."

04:17:45 4 Ladies and gentlemen of the jury, when you objectively
04:17:52 5 evaluate the immutable, incontrovertible evidence in this
04:17:57 6 case, the only conclusion that you will be able to draw is
04:18:00 7 that Russell Davis is not guilty of distributing Fentanyl on
04:18:05 8 3/7/2016 at 11:34 a.m. And he's certainly not responsible
04:18:13 9 for dealing Fentanyl that resulted in the tragic death of
04:18:20 10 Jacob Castro-White.

04:18:21 11 Thank you.

04:18:21 12 THE COURT: Thank you, Mr. Bryan.

04:18:22 13 Mr. Corts.

04:18:28 14 Ladies and gentlemen, we'll have one witness before we
04:18:31 15 retire for the evening. It will be relatively short.

04:18:33 16 MR. CORTS: The Government will call Holly
04:18:34 17 Litz.

04:19:04 18 THE COURT: Please be sworn.

04:19:08 19 (Witness sworn.)

04:19:10 20 THE COURT: Please have a seat.

04:19:23 21 Mr. Corts, when you're ready.

04:19:24 22 MR. CORTS: Thank you, Judge.

04:19:27 23 HOLLY LITZ

04:19:27 24 - - - - -

04:19:28 25 DIRECT EXAMINATION

04:19:28 1 BY MR. CORTS:

04:19:28 2 **Q** Good afternoon.

04:19:29 3 **A** Good afternoon.

04:19:29 4 **Q** Make sure you speak loud enough in that microphone so

04:19:33 5 that everyone can hear you, specifically the jurors in this

04:19:35 6 case. Okay?

04:19:35 7 **A** Yup.

04:19:36 8 **Q** Would you please tell us your name and spell your name

04:19:39 9 for the record.

04:19:40 10 **A** Holly Litz. H-O-L-L-Y and then L-I-T-Z.

04:19:46 11 **Q** Miss Litz, if you could, would you tell us your date

04:19:50 12 of birth?

04:19:51 13 **A** 02/24/1994.

04:19:54 14 **Q** And how old are you as you sit there now?

04:19:56 15 **A** 24.

04:19:56 16 **Q** And without giving your address, because we don't want

04:19:59 17 you to do that, what city do you currently live in?

04:20:02 18 **A** Lorain.

04:20:02 19 **Q** Okay. And tell us a little bit about how long you've

04:20:08 20 lived in Lorain, Ohio.

04:20:09 21 **A** I've lived there almost my whole life.

04:20:16 22 **Q** And who do you live there now with?

04:20:18 23 **A** My mom, dad, and brother.

04:20:19 24 **Q** Can you tell us about what school you attended?

04:20:24 25 **A** I went to high school in Amherst, and I am currently

04:20:28 1 at LC.

04:20:29 2 **Q** Okay. Can you tell us, what year did you graduate
04:20:31 3 from high school at Amherst?

04:20:33 4 **A** 2013.

04:20:34 5 **Q** And after your graduation from high school in 2013,
04:20:42 6 did you start school? Did you start a job? Both? Can you
04:20:46 7 tell us about that, please?

04:20:46 8 **A** Yeah. I started -- I'm an assistant manager at Panera
04:20:53 9 Bread, and I started college at Lorain County Community
04:20:56 10 College.

04:20:56 11 **Q** What kind of career track are you on, if you could
04:20:59 12 tell us?

04:20:59 13 **A** I just got accepted for the radiology program at LC.

04:21:03 14 **Q** Now, I want to draw your attention back to your high
04:21:06 15 school years.

04:21:09 16 Did you meet or come to know someone by the name of
04:21:12 17 Jacob Castro-White?

04:21:13 18 **A** Yes. Me and Jacob were friends.

04:21:16 19 **Q** Can you tell us if you can recall when you first met
04:21:19 20 him?

04:21:19 21 **A** It was actually my first year. I was a freshman, and
04:21:26 22 he was in my study hall and we met.

04:21:29 23 **Q** I want to direct your attention to Government's
04:21:31 24 Exhibit 1A, if I could.

04:21:39 25 Do you see the photograph that's depicted before you

04:21:41 1 there?

04:21:42 2 **A** Yes.

04:21:42 3 **Q** Can you tell us who that photograph depicts?

04:21:47 4 **A** Jacob Castro-White.

04:21:50 5 **Q** Thank you.

04:21:51 6 Tell us about your relationship with Jacob Castro back
04:21:57 7 in March of 2016. What was your relationship with him like
04:22:00 8 at that time?

04:22:00 9 **A** He was my boyfriend.

04:22:02 10 **Q** And how long had the two of you been together?

04:22:05 11 **A** About a year.

04:22:06 12 **Q** And when you say he was your boyfriend, can you tell
04:22:09 13 us what that means?

04:22:10 14 **A** Basically, we would go to school together, I would
04:22:15 15 come home, we'd hang out at his house. I'd see him for
04:22:20 16 almost the entire day every day.

04:22:21 17 **Q** Okay. Where would you go to school together in 2016?

04:22:25 18 **A** He -- I think I was in college and he was in college.

04:22:31 19 **Q** Okay. And you were going to LC?

04:22:34 20 **A** Yup.

04:22:34 21 **Q** Tell us a little bit about Jake. What -- was he
04:22:40 22 working in 2016?

04:22:43 23 **A** Yeah. He worked as a bartender, and he also did -- he
04:22:49 24 would train people in the gym on the side.

04:22:51 25 **Q** Okay. And did he have hobbies?

04:22:54 1 **A** Yeah. He loved the gym and he loved watching movies.

04:23:01 2 He was a big movie buff.

04:23:05 3 **Q** And was he also either a weightlifter or a

04:23:08 4 bodybuilder?

04:23:08 5 **A** Yeah, he did bodybuilding. He competed in

04:23:11 6 bodybuilding shows. That was his main goal. He wanted to

04:23:14 7 be a bodybuilder.

04:23:15 8 **Q** And again, showing you Government's Exhibit 1D, can

04:23:21 9 you tell us about Government's Exhibit 1D? Who's depicted

04:23:28 10 in that photograph?

04:23:28 11 **A** That's me and Jake at his brother's wedding.

04:23:32 12 **Q** Okay. Thank you.

04:23:36 13 Were you close, the two of you?

04:23:40 14 **A** Yeah, we were very close.

04:23:41 15 **Q** Now, did you know at that time or at any time prior to

04:23:47 16 his death that he was a heroin or opiate user?

04:23:53 17 **A** No.

04:23:53 18 **Q** He kept that from you?

04:23:56 19 **A** Yes.

04:23:56 20 **Q** Do you know what Jacob's date of birth is? Do you

04:24:02 21 know his birthday?

04:24:02 22 **A** February 10th or 11th, I think.

04:24:08 23 **Q** And was he older than you? The same age as you?

04:24:11 24 **A** He is one year older.

04:24:14 25 **Q** Now, you've described that you would go places with

04:24:17 1 him and do things with him. Would you be together with him
04:24:23 2 essentially every day of the week?

04:24:24 3 **A** Yeah, pretty much, because I would work in the morning
04:24:28 4 and then I had class for about an hour, and he also worked
04:24:31 5 and then had class. And we would come home, and I would
04:24:33 6 hang out with him.

04:24:34 7 **Q** Where would you hang out with him?

04:24:39 8 **A** At his house.

04:24:41 9 **Q** Can you just describe his house for us, please?

04:24:43 10 **A** Yeah. It's just an average size house. And we would
04:24:46 11 just hang out in the basement.

04:24:47 12 **Q** I'm going to direct your attention to Government's
04:24:49 13 Exhibit 4A.

04:24:54 14 Can you describe what Government's Exhibit 4A depicts?

04:24:57 15 **A** That's where Jake lived.

04:24:58 16 **Q** Do you know the name of the street?

04:25:00 17 **A** Is it Province? Colony? I don't know. I'm not sure.

04:25:10 18 **Q** How far from where you lived?

04:25:12 19 **A** About one minute.

04:25:13 20 **Q** Okay. And you had earlier said that you would go down
04:25:18 21 to the basement and hang out. Can you describe the house?

04:25:20 22 Did Jacob have a room there?

04:25:23 23 **A** Yeah, Jacob had a bedroom upstairs.

04:25:25 24 **Q** And who lived with Jacob at that residence in March of
04:25:28 25 2016?

04:25:30 1 **A** His mother, Cindy.

04:25:32 2 **Q** Okay. Did Jacob have any siblings, brothers or

04:25:36 3 sisters?

04:25:36 4 **A** One older brother.

04:25:38 5 **Q** And what's his name?

04:25:39 6 **A** Josh.

04:25:43 7 **Q** And did Jacob's dad live there back in March of 2016?

04:25:47 8 **A** No.

04:25:54 9 **Q** Now, had you been in Jacob's room prior to March of

04:25:58 10 2016, prior to March 7 of 2016?

04:26:03 11 **A** Yes.

04:26:03 12 **Q** Upstairs?

04:26:04 13 **A** Yes.

04:26:04 14 **Q** Were you pretty much freely accepted into the house,

04:26:09 15 you could go wherever you want?

04:26:11 16 **A** Yeah.

04:26:11 17 **Q** Okay. And during times that you were in Jacob's room,

04:26:15 18 did you see any evidence of drug usage?

04:26:22 19 **A** Just of steroids.

04:26:23 20 **Q** Okay. And what do you mean by "just of steroids"?

04:26:26 21 What did you see?

04:26:26 22 **A** It would be like a couple labeled pills or a vial.

04:26:39 23 **Q** Can you describe what a vial is for the record and for

04:26:43 24 the ladies and gentlemen of the jury?

04:26:43 25 **A** It kind of looks like a little eyedrop container.

04:26:49 1 **Q** So did you know that Jake was using steroids?

04:26:52 2 **A** Yes.

04:26:53 3 **Q** Did he talk to you about using steroids?

04:26:55 4 **A** Yeah. He was very open about it. He knew his stuff.

04:26:58 5 He researched his stuff. He knew what he was doing.

04:27:01 6 **Q** Okay. He didn't hide that from you?

04:27:03 7 **A** No.

04:27:04 8 **Q** Okay. When you were in his room -- and I take it you

04:27:07 9 had free rein of his room and the house for that matter,

04:27:10 10 right?

04:27:10 11 **A** Yes.

04:27:11 12 **Q** You were on good terms with his mom?

04:27:12 13 **A** Yes.

04:27:13 14 **Q** Were there times that you would spend the night at the

04:27:16 15 residence?

04:27:16 16 **A** Almost every single night besides one.

04:27:18 17 **Q** And where would you stay?

04:27:20 18 **A** We would sleep in the basement.

04:27:21 19 **Q** Okay. But during that night if you wanted to go up in

04:27:23 20 his room, you could?

04:27:24 21 **A** Yeah. I would sometimes go up there to get a T-shirt

04:27:28 22 to wear or hoodie to wear or shorts, and I would just go

04:27:32 23 upstairs and take them.

04:27:33 24 **Q** At any time when you were at -- had free rein of the

04:27:35 25 house and go up to Jake's room, did you ever find any burnt

04:27:39 1 spoons that looked like someone was using heroin or abusing
04:27:43 2 opiate drugs?

04:27:44 3 **A** No.

04:27:50 4 **Q** He hid that from you?

04:27:52 5 **A** Yes.

04:27:52 6 **Q** You didn't know about that?

04:27:53 7 **A** No.

04:27:53 8 **Q** Are you a drug user?

04:27:58 9 **A** No.

04:27:58 10 **Q** Did you approve of the use of drugs?

04:28:03 11 **A** No.

04:28:03 12 **Q** Heroin, marijuana?

04:28:05 13 **A** No.

04:28:06 14 **Q** Did you tell him?

04:28:12 15 **A** No.

04:28:12 16 **Q** Did he know that? Did Jake know that you didn't
04:28:16 17 approve of those?

04:28:18 18 **A** Yes.

04:28:19 19 **Q** I want to draw your attention specifically to Jake's
04:28:21 20 state of health back in March of 2016.

04:28:25 21 Can you describe Jacob healthwise?

04:28:29 22 **A** Mostly he was pretty healthy. He'd go to the gym. He
04:28:35 23 ate very well. Yeah, he was pretty healthy.

04:28:40 24 **Q** Pretty strong, strapping young man?

04:28:42 25 **A** Very strong. We'd go to the gym together.

04:28:45 1 **Q** He could work out strenuously for a long period of
04:28:48 2 time?

04:28:48 3 **A** Yes.

04:28:48 4 **Q** Multiple times a day?

04:28:50 5 **A** Yup.

04:28:51 6 **Q** Healthy kid?

04:28:51 7 **A** Yes.

04:28:52 8 **Q** I want to draw your attention specifically to
04:28:57 9 something that the defense has talked about with you. I
04:29:01 10 know they talked with you.

04:29:02 11 Did they try to talk to you?

04:29:04 12 **A** They tried to, but I wasn't home.

04:29:07 13 **Q** All right. But with other witnesses they've talked
04:29:09 14 about asthma.

04:29:10 15 Did you know if Jake had asthma or not?

04:29:13 16 **A** Yeah.

04:29:14 17 **Q** Okay. During the period of time that you were with
04:29:16 18 Jake, tell us about what you observed in regards to Jake or
04:29:22 19 asthma.

04:29:23 20 Did you ever see him have an episode or have any
04:29:25 21 issues?

04:29:26 22 **A** No.

04:29:26 23 **Q** You had learned from either him or his mom that at
04:29:32 24 some point in time he had asthma?

04:29:33 25 **A** Yeah. He told me when he was, like, really little,

04:29:37 1 like three or four, he had an asthma attack or something.

04:29:40 2 Q But the period of time that you were with him, you
04:29:42 3 never saw him experience asthmatic symptoms or asthma; is
04:29:47 4 that correct?

04:29:47 5 A No.

04:29:47 6 Q So I want to draw your attention now to March 6, 2016.
04:29:59 7 Were you with Jake on that particular date?

04:30:01 8 A Yes.

04:30:01 9 Q And can you, Miss Litz, please tell us about the time
04:30:07 10 that you spent with him on that particular day.

04:30:08 11 A I had just gotten off work, and I --

04:30:12 12 Q Where were you working at that time?

04:30:13 13 A Panera Bread.

04:30:17 14 Q Do you recall what time you would have gotten off work
04:30:19 15 that day?

04:30:20 16 A Around 4 p.m.

04:30:21 17 Q Okay. And after you got off work, where did you go?

04:30:24 18 A I went home to shower real quick.

04:30:27 19 Q How long would that have taken?

04:30:28 20 A By the time I got done getting ready and to pick up
04:30:33 21 Jake, it would be around 5.

04:30:34 22 Q Okay. And what did you do then?

04:30:37 23 A I picked up Jake from his house, and we were going to
04:30:42 24 see a movie at Regal Cinema in Sheffield. And we went to
04:30:48 25 Giant Eagle to pick up some candy before we went to the

04:30:54 1 movie.

04:30:54 2 Q Let me ask you, did you drive a vehicle to pick up
04:30:57 3 Jacob?

04:30:57 4 A Yes.

04:30:57 5 Q Whose vehicle?

04:30:58 6 A Mine.

04:30:58 7 Q Okay. And did you go inside, if you know, or did you
04:31:01 8 just toot the horn and he came out? Can you tell us what
04:31:04 9 happened?

04:31:04 10 A He was impatient, so he was already waiting for me.

04:31:08 11 Q Okay. And from there did you drive or did he drive?

04:31:10 12 A I drove.

04:31:11 13 Q Whose vehicle?

04:31:12 14 A My car.

04:31:14 15 Q And where did you go?

04:31:14 16 A We went first to Giant Eagle by Sheffield.

04:31:17 17 Q Okay. And what was the purpose of going to Giant
04:31:23 18 Eagle in Sheffield?

04:31:24 19 A Jake wanted candy.

04:31:28 20 Q And after you got the candy -- I take it you got candy
04:31:31 21 at Sheffield?

04:31:31 22 A Yeah.

04:31:31 23 Q Then what occurred then?

04:31:33 24 A Then we went to see a movie at Regal Cinema.

04:31:38 25 Q And did you watch the movie?

04:31:39 1 **A** Yes.

04:31:39 2 **Q** You and Jake?

04:31:39 3 **A** Yup.

04:31:40 4 **Q** And what did you do after you left the movie?

04:31:45 5 **A** We drove back to his house and we went back in the

04:31:49 6 basement where we watched some TV.

04:31:51 7 **Q** From the point in time that you picked Jake up until

04:31:53 8 you got back to your house, so from the point in time you

04:31:55 9 picked him up, you went to get candy, you went to a movie,

04:31:58 10 and you came home, did you notice anything about Jake's

04:32:02 11 physical condition that caused you alarm or made you think

04:32:05 12 that anything was out of the ordinary?

04:32:07 13 **A** No.

04:32:08 14 **Q** Okay. Healthy?

04:32:09 15 **A** Yes.

04:32:10 16 **Q** No asthma?

04:32:11 17 **A** No asthma.

04:32:12 18 **Q** No trouble breathing?

04:32:13 19 **A** No.

04:32:13 20 **Q** So now you're back at his place in the basement and

04:32:18 21 you're watching TV downstairs?

04:32:19 22 **A** Yup.

04:32:20 23 **Q** Tell us what happens then.

04:32:21 24 **A** We're watching George Lucas, and we both nod off and

04:32:27 25 fall asleep for a little bit.

04:32:29 1 **Q** Okay. What happens next?

04:32:30 2 **A** I woke up. He was still sleeping, so I just continued

04:32:35 3 watching TV. And then I seen his phone ringing. I think it

04:32:42 4 was from Donny. But he didn't get it yet, so I just kept

04:32:46 5 watching TV because I didn't want to wake him up.

04:32:48 6 **Q** I have to stop you there.

04:32:49 7 Who is Donny?

04:32:50 8 **A** Donny is Jake's friend.

04:32:53 9 **Q** Do you know Donny's full name?

04:32:55 10 **A** Donny Buchs.

04:32:58 11 **Q** Okay. Did you have a phone at that time?

04:33:05 12 **A** Yes.

04:33:05 13 **Q** What kind of phone did you have?

04:33:06 14 **A** iPhone 5.

04:33:11 15 **Q** And did Jake have a phone at that time?

04:33:13 16 **A** Yes.

04:33:13 17 **Q** Did you ever call Jake on his phone? Did you ever try

04:33:16 18 to get ahold of him and contact him?

04:33:18 19 **A** Yes.

04:33:18 20 **Q** And do you recall Jake's number?

04:33:21 21 **A** Kind of.

04:33:25 22 **Q** Okay. What kind of do you recall about it?

04:33:27 23 **A** I think it maybe started with a 989.

04:33:36 24 **Q** Now, when you would try to get ahold of Jacob, was

04:33:41 25 that the number that you called him on, on that 989 number?

04:33:44 1 **A** Yeah. We would just text though.

04:33:46 2 **Q** Okay. You, like my kid, text?

04:33:50 3 **A** Yeah.

04:33:50 4 **Q** No voice?

04:33:51 5 **A** No, not really. Not usually.

04:33:52 6 **Q** All right. So you said you were down in the basement

04:33:58 7 and you noticed that his phone -- was it ringing or was it

04:34:02 8 lighting up? What was it doing?

04:34:03 9 **A** It was lighting up.

04:34:04 10 **Q** What does that mean?

04:34:05 11 **A** It just showed, like -- the lights were off because we

04:34:10 12 were watching TV, and so it kind of lit up like a little

04:34:13 13 flashlight, and it said Donny's name and that he was

04:34:17 14 calling.

04:34:17 15 **Q** All right. And at that point in time, he didn't get

04:34:18 16 that call or that text or that alert, right?

04:34:21 17 **A** Right.

04:34:22 18 **Q** What happened next?

04:34:25 19 **A** About 15 minutes later, Jake woke up and seen -- I

04:34:30 20 told him that he had a missed call. And he seen that Donny

04:34:33 21 had called him, and he called him back.

04:34:35 22 **Q** Okay. And do you know what happened after that?

04:34:39 23 **A** He said that he was going to go hang out with Donny.

04:34:42 24 I was a little upset because it was getting late. I just

04:34:45 25 wanted to hang out. And he said that he hadn't seen Donny

04:34:49 1 in a while and he wanted to hang out with Donny.

04:34:52 2 So we walked upstairs. He gave me a hug good-bye, and
04:34:59 3 he said he would text me when he got to Donny's.

04:35:02 4 **Q** Okay. Did the two of you walk out the residence?

04:35:05 5 **A** Yes.

04:35:06 6 **Q** Did you know -- do you know if you saw his mom at that
04:35:09 7 time or where his mom was?

04:35:10 8 **A** I don't think she was home at the moment.

04:35:16 9 **Q** Do you know or you don't know?

04:35:17 10 **A** I don't know.

04:35:18 11 **Q** Okay. And approximately what time would it have been
04:35:22 12 when you and Jake, Jacob or Jake, walked out of that
04:35:27 13 residence? Do you know?

04:35:28 14 **A** I don't know exactly, but it was late, so it was,
04:35:35 15 like, 9-ish, 9 p.m.

04:35:38 16 **Q** Okay. Were you keeping track of it at that time with
04:35:41 17 your watch, what time you were doing stuff?

04:35:43 18 **A** No.

04:35:43 19 **Q** Did you really have any reason to do that at that
04:35:46 20 time?

04:35:46 21 **A** No.

04:35:46 22 **Q** Did it just seem like a normal day of hanging out
04:35:50 23 with --

04:35:51 24 **A** Yeah, it was a normal day.

04:35:52 25 **Q** And if we could retrace the steps, I think you said

04:35:58 1 you picked him up at 5. You went to Sheffield.

04:36:01 2 How long does it take to get to Sheffield?

04:36:02 3 **A** From there, it was, like, 10 minutes.

04:36:06 4 **Q** Okay. Because you went to Giant Eagle first.

04:36:11 5 **A** Mm-hmm.

04:36:11 6 **Q** Then you drove from Giant Eagle to the Cobblestone

04:36:14 7 movie theater. How long does that take?

04:36:16 8 **A** Not long. It's down the street, so like 5.

04:36:20 9 **Q** Okay. Watched a movie?

04:36:21 10 **A** Yeah.

04:36:22 11 **Q** Movies are about 2 hours?

04:36:26 12 **A** Yes.

04:36:27 13 **Q** Then you had to drive back?

04:36:28 14 **A** Yes.

04:36:28 15 **Q** Then you hung out for a while?

04:36:29 16 **A** Yeah, a while.

04:36:31 17 **Q** And then that's when the second time that you noticed

04:36:35 18 that Donny was calling and Jake took the call?

04:36:39 19 **A** Yes.

04:36:40 20 **Q** So while you weren't looking at your watch, that kind

04:36:42 21 of period of time passed before you left?

04:36:44 22 **A** Yes, yup.

04:36:45 23 **Q** And was that the last time that you ever saw Jacob?

04:36:51 24 **A** Yes.

04:36:55 25 **Q** What happened next significant to you in this

04:37:00 1 particular matter?

04:37:00 2 **A** I went home. I was very tired. So I went straight to
04:37:09 3 sleep.

04:37:10 4 And the next -- when I opened my eyes, Cindy, Jake's
04:37:14 5 mom, was calling me and told me that I needed to get over to
04:37:18 6 her house because Jacob was dead.

04:37:19 7 **Q** Did you go over there?

04:37:22 8 **A** Yeah.

04:37:22 9 **Q** What was going on when you got over there?

04:37:24 10 **A** I didn't know what had happened. I thought maybe he
04:37:29 11 got in a car accident. And I walk in and Cindy is frantic
04:37:37 12 and said that Jacob's dead. And I was just confused.

04:37:42 13 **Q** Okay. Were the police there?

04:37:44 14 **A** Yes.

04:37:46 15 **Q** If you know, were the paramedics there?

04:37:49 16 **A** Yes.

04:37:52 17 **Q** How long did you stay there? Once you got there, how
04:38:00 18 long were you there for?

04:38:01 19 **A** Probably for about at least like an hour and a half.

04:38:04 20 **Q** What took place during the time period that you were
04:38:06 21 there for that hour and a half?

04:38:07 22 **A** Everyone just kept coming in, like his friend Brian,
04:38:13 23 his friend Donny. We were trying to figure out what
04:38:19 24 happened. Everyone was just really confused.

04:38:21 25 **Q** Okay. Did you at some point in time, once you got

04:38:25 1 over there, did you learn that drugs were suspected?

04:38:31 2 **A** Yeah. He had -- one of the policemen says that drugs
04:38:36 3 were there. And I said, yeah, he took steroids. But I knew
04:38:42 4 from Jake that steroids didn't do anything to him because he
04:38:46 5 knew everything about what he was taking. And I just knew
04:38:51 6 it wasn't that.

04:39:00 7 **Q** Do you know -- you mentioned Brian. What's Brian's
04:39:04 8 last name?

04:39:04 9 **A** Stoll.

04:39:05 10 **Q** Okay. Brian and Jake were friends; is that correct?

04:39:08 11 **A** Yes.

04:39:09 12 **Q** And Brian was there?

04:39:10 13 **A** Yes.

04:39:11 14 **Q** Do you know someone by the name of Harry?

04:39:14 15 **A** Yes.

04:39:15 16 **Q** And do you actually know him or you just know of him?

04:39:18 17 **A** I know him.

04:39:20 18 **Q** Have you spent time with Harry with Jake?

04:39:25 19 **A** We have hung out a little bit here and there, but they
04:39:28 20 broke off their friendship.

04:39:30 21 **Q** Okay. Something happened with them?

04:39:32 22 **A** Yes.

04:39:32 23 **Q** As far as you knew?

04:39:36 24 **A** Yes.

04:39:36 25 **Q** Okay. And do you know someone by the name of Corey

04:39:42 1 Stock?

04:39:42 2 **A** I don't know him personally.

04:39:44 3 **Q** Okay. You just heard of the name?

04:39:45 4 **A** Yes.

04:39:46 5 **Q** Okay.

04:39:50 6 MR. CORTS: If I could have a moment, Your

04:39:51 7 Honor.

04:39:51 8 THE COURT: Go ahead.

04:40:48 9 MR. CORTS: Thank you.

04:40:49 10 THE COURT: Thank you, Mr. Corts.

04:40:52 11 Mr. Bryan, cross.

04:40:54 12 CROSS-EXAMINATION

04:40:54 13 BY MR. BRYAN:

04:41:03 14 **Q** Good afternoon, Miss Litz.

04:41:07 15 **A** Good afternoon.

04:41:08 16 **Q** You indicated you were dating Jacob for about a
04:41:10 17 year --

04:41:11 18 **A** Yes.

04:41:11 19 **Q** -- prior to his passing?

04:41:13 20 Okay. And the night before he died, you guys were
04:41:17 21 together and you went to the movies, right?

04:41:19 22 **A** Yes.

04:41:20 23 **Q** And prior to going to the movies, you stopped at --
04:41:23 24 you guys stopped at the Giant Eagle in Sheffield?

04:41:24 25 **A** Yes.

04:41:25 1 **Q** Did you notice whether or not Jacob had talked to
04:41:28 2 anyone in the Giant Eagle other than the store clerk or --
04:41:31 3 **A** No. We just went in, we got candy, and we went out.
04:41:34 4 **Q** Okay. And he had a real sweet tooth, right?
04:41:40 5 **A** Yes.
04:41:41 6 **Q** Now, you -- Mr. Corts asked you about his asthma.
04:41:45 7 Were you aware that Jacob, did he have like a machine,
04:41:49 8 like an albuterol machine, if you recall?
04:41:54 9 **A** He had like a humidifier.
04:41:56 10 **Q** Yeah, like where he would breathe in like medicine?
04:42:00 11 **A** Yeah.
04:42:01 12 **Q** Okay. Was he using that at the time that he was
04:42:03 13 dating you?
04:42:04 14 **A** Not that I recall.
04:42:05 15 **Q** Okay. But you did see it.
04:42:11 16 Was the machine in his room or where did he keep the
04:42:13 17 machine?
04:42:13 18 **A** It was in his closet.
04:42:14 19 **Q** It was in his closet? Okay.
04:42:16 20 And did he explain to you what that was for?
04:42:18 21 **A** Yeah.
04:42:19 22 **Q** Okay. And Jacob -- other than him using steroids, he
04:42:24 23 was able to keep all of his other drug use from you?
04:42:27 24 **A** Yeah.
04:42:30 25 **Q** Okay. Now, you didn't want him to go over to Donny

04:42:34 1 Buchs' house that night, correct?

04:42:35 2 **A** Right.

04:42:36 3 **Q** But he said he hadn't seen him in a while and he
04:42:38 4 didn't want to --

04:42:39 5 **A** Yeah.

04:42:39 6 **Q** Okay. Did you know Jake to smoke marijuana with Donny
04:42:43 7 Buchs?

04:42:44 8 **A** Yeah. He knew I didn't like that, so --

04:42:47 9 **Q** Okay. Do you know if he used anything else with Donny
04:42:49 10 Buchs?

04:42:50 11 **A** No.

04:42:50 12 **Q** Okay. Now, when you -- you went home and you went to
04:43:05 13 sleep, and then tragically you were awakened to Jake's
04:43:10 14 mother's telephone call. Right?

04:43:12 15 **A** Yeah.

04:43:12 16 **Q** Okay. And she asked you to come to the home. In
04:43:14 17 fact, law enforcement officers were already there, correct?

04:43:16 18 **A** Yes.

04:43:16 19 **Q** And what they were doing is they were trying to
04:43:19 20 retrace Jacob's steps from the night before, right?

04:43:23 21 **A** Right.

04:43:23 22 **Q** Okay. And do you recall, were you all, like, sitting
04:43:27 23 in the living room together?

04:43:28 24 **A** We were in the kitchen.

04:43:28 25 **Q** In the kitchen together?

04:43:29 1 **A** Yes.

04:43:30 2 **Q** And then law enforcement officers were questioning you

04:43:33 3 guys all at one time?

04:43:35 4 **A** He -- the one law officer pulled me in the family room

04:43:39 5 and asked me some questions.

04:43:40 6 **Q** Okay. So -- he was pulling you out of the room then

04:43:44 7 to ask you questions?

04:43:44 8 **A** Yes.

04:43:44 9 **Q** And do you know if he did that with the others that

04:43:46 10 were there as well?

04:43:47 11 **A** Yes.

04:43:47 12 **Q** And do you know, was Donny Buchs there at that time,

04:43:52 13 or did he come a little bit later?

04:43:53 14 **A** He came a little bit later.

04:43:54 15 **Q** Okay. Do you know if law enforcement actually went to

04:43:59 16 his home to bring him?

04:44:01 17 **A** Yes, because he wasn't answering his phone. He was

04:44:03 18 sleeping.

04:44:04 19 **Q** Okay. And so he came back.

04:44:05 20 And then Brian Stoll, he appeared I guess voluntarily.

04:44:08 21 Correct?

04:44:09 22 **A** Yeah, Brian came a little bit after me.

04:44:11 23 **Q** Okay. And Brian was one -- probably Jake's best

04:44:17 24 friend, right?

04:44:18 25 **A** Yeah.

04:44:18 1 **Q** And they lifted weights together?

04:44:19 2 **A** Yes.

04:44:20 3 **Q** Okay. And you knew Harry, but at the time they had

04:44:26 4 had a falling out?

04:44:27 5 **A** Right.

04:44:27 6 **Q** Okay. How long before that had they had this falling

04:44:30 7 out?

04:44:30 8 **A** Probably months, about five months, I guess.

04:44:38 9 **Q** Okay. So for that five -- that previous five months,

04:44:41 10 were you aware that Jake was hanging out with Harry at all?

04:44:45 11 **A** I was not aware.

04:44:47 12 **Q** Okay. Before Jake and Harry stopped hanging out with

04:44:51 13 one another, did you -- you said you were with Harry on

04:44:55 14 occasion with Jake?

04:44:56 15 **A** That was before they had the falling out.

04:44:59 16 **Q** Okay. And he's older than you guys, correct?

04:45:02 17 **A** Right.

04:45:03 18 **Q** But he went to the same high school as well?

04:45:05 19 **A** Yes.

04:45:05 20 **Q** Okay. You said you had an iPhone 5. Do you remember

04:45:14 21 what kind of iPhone Jacob had?

04:45:16 22 **A** I believe he had the iPhone 6.

04:45:18 23 **Q** He had the 6? Okay.

04:45:19 24 Now, do you recall a time when you were sitting at

04:45:26 25 Jake's home in the morning and people noticed that Jake was

04:45:33 1 receiving a bunch of telephone calls from Harry?

04:45:35 2 **A** Did I know that he was getting --

04:45:36 3 **Q** I mean, what -- in your presence, did anyone -- did
04:45:41 4 they have Jake's phone or was law enforcement or did anyone
04:45:44 5 have possession of Jake's phone?

04:45:45 6 **A** Law enforcement had possession of his phone.

04:45:47 7 **Q** Okay. And were they looking at his phone and seeing
04:45:50 8 that he had received a lot of missed calls from somebody?

04:45:53 9 **A** Yes.

04:45:54 10 **Q** And that person was Harry?

04:45:56 11 **A** Yes.

04:45:56 12 **Q** Okay. Do you recall law enforcement directing Brian
04:46:00 13 Stoll to reach out to Harry or something like that?

04:46:06 14 **A** I don't remember.

04:46:07 15 **Q** Okay. Do you recall whether or not law enforcement
04:46:09 16 actually spoke to Harry on the telephone at least in your
04:46:13 17 presence that morning?

04:46:16 18 **A** I did not see them on the phone with Harry.

04:46:22 19 **Q** Okay.

04:46:25 20 MR. BRYAN: I have nothing further, Your
04:46:26 21 Honor.

04:46:26 22 Thank you, Miss Litz. And I'm sorry for your loss.

04:46:30 23 THE WITNESS: Thank you.

04:46:30 24 THE COURT: Thank you, Mr. Bryan.

04:46:33 25 Mr. Corts, anything?

04:46:34 1 MR. CORTS: Just following up on one of the
04:46:36 2 questions.

04:46:37 3 THE COURT: Go ahead.

04:46:38 4 REDIRECT EXAMINATION

04:46:38 5 BY MR. CORTS:

04:46:39 6 **Q** About this iPhone 5, iPhone 6. You had a phone,
04:46:43 7 correct?

04:46:43 8 **A** Right.

04:46:44 9 **Q** And Jake had a phone?

04:46:45 10 **A** Right.

04:46:45 11 **Q** Now, when you wanted to get ahold of Jake, it would
04:46:49 12 be -- would you get ahold of him with the phone?

04:46:52 13 **A** Correct.

04:46:53 14 **Q** Would you Facebook with him to get ahold of him or did
04:46:55 15 you call him on the phone?

04:46:56 16 **A** No. We'd use the phone.

04:46:58 17 **Q** Did you communicate with him by Instagram?

04:47:00 18 **A** No.

04:47:00 19 **Q** You would call him on the phone?

04:47:03 20 **A** Right.

04:47:03 21 MR. CORTS: Okay. Nothing further, Your
04:47:11 22 Honor.

04:47:11 23 THE COURT: Mr. Bryan, anything?

04:47:12 24 MR. BRYAN: Nothing further.

04:47:13 25 THE COURT: Ladies and gentlemen, any

04:47:14 1 questions before Miss Litz steps down? Any questions?

04:47:18 2 Okay. Miss Litz, thank you very much. You can step
04:47:20 3 down.

04:47:22 4 I'll see counsel real quick, please.

04:47:24 5 (At Side Bar.)

04:47:29 6 MR. BRYAN: Judge, Darin and I were talking
04:47:31 7 because I don't know if you told the jury at the beginning
04:47:35 8 of the case that you actually allowed them to ask questions.

04:47:39 9 THE COURT: I did. I went through the whole
04:47:40 10 thing with them. We're good.

04:47:40 11 (Discussion off the record.)

04:47:52 12 THE COURT: So tomorrow morning, Rob, we have?

04:47:55 13 MR. CORTS: Donny Buchs, mom, the paramedic,
04:47:58 14 Kovach, and Sivert. And we've --

04:48:01 15 THE COURT: Sivert's going to take a while.

04:48:03 16 MR. CORTS: We have to get Sivert on and off
04:48:05 17 because he's got --

04:48:05 18 THE COURT: Tomorrow?

04:48:07 19 MR. CORTS: Yeah, I mean, I think we can do it.

04:48:08 20 THE COURT: All right. We'll see how much we
04:48:09 21 get done in the morning.

04:48:10 22 MR. CORTS: Even if we call him out of
04:48:11 23 order -- we can call him out of order.

04:48:14 24 THE COURT: It's up to you guys.

04:48:14 25 MR. KATSAROS: The medical evidence we have

04:48:14 1 will take a while.

04:48:22 2 MR. CORTS: We'll see. I don't know.

04:48:22 3 MR. KATSAROS: I'd just like to get Shanks off
04:48:24 4 because he's flying in.

04:48:25 5 MR. CORTS: Well, we can't put two at a time.

04:48:27 6 MR. KATSAROS: I know.

04:48:27 7 THE COURT: Okay. We'll start tomorrow
04:48:29 8 morning. Thanks, guys.

04:48:36 9 MR. CORTS: Thank you, Judge.

04:48:36 10 (In Open Court.)

04:48:37 11 THE COURT: Time to go home, ladies and
04:48:38 12 gentlemen. Please report to the jury room tomorrow morning
04:48:40 13 at 8:30.

04:48:44 14 THE DEPUTY CLERK: Lower level.

04:48:45 15 THE COURT: Yeah, downstairs jury room at
04:48:47 16 8:30. And we'll call you up at 8:30 and get going around
04:48:52 17 9-ish or so, and we'll take it from there.

04:48:54 18 Have a good evening.

04:48:59 19 (The jury was excused for the day.)

04:49:38 20 THE COURT: We're excused for the day, ladies
04:49:41 21 and gentlemen.

04:49:43 22 (Proceedings adjourned at 4:49 p.m.)

* * * * *

23 **C E R T I F I C A T E**

24 I certify that the foregoing is a correct transcript
25 of the record of proceedings in the above-entitled matter
prepared from my stenotype notes.

25 /s/ Lance A. Boardman

Lance A. Boardman, RDR, CRR

06/07/2018

DATE